

104TH CONGRESS
1ST SESSION

S. 1271

To amend the Nuclear Waste Policy Act of 1982.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1995

Mr. CRAIG (for himself, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. KEMPTHORNE, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Nuclear Waste Policy Act of 1982.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Nuclear Waste Policy Act of 1982 is amended
4 to read as follows:

5 **“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

6 “(a) SHORT TITLE.—This Act may be cited as the
7 ‘Nuclear Waste Policy Act of 1995’.

8 “(b) TABLE OF CONTENTS.—

“Sec. 1. Short title and table of contents.

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

“TITLE I—OBLIGATIONS

“Sec. 101. Obligations of the Secretary of Energy.

“TITLE II—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT
SYSTEM

“Sec. 201. Railroad.

“Sec. 202. Intermodal transfer.

“Sec. 203. Transportation planning.

“Sec. 204. Transportation requirements.

“Sec. 205. Interim storage.

“Sec. 206. Permanent disposal.

“Sec. 207. Land withdrawal.

“TITLE III—STATE AND LOCAL RELATIONS

“Sec. 301. Financial assistance.

“Sec. 302. State consultations.

“Sec. 303. Benefits agreements.

“Sec. 304. Content of agreements.

“Sec. 305. Review panel.

“Sec. 306. Consideration in siting facilities.

“Sec. 307. Acceptance of benefits.

“Sec. 308. Restriction on use of funds.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.

“Sec. 402. Office of Civilian Radioactive Waste Management.

“Sec. 403. Federal contribution.

“Sec. 404. Budget priorities.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Judicial review of agency actions.

“Sec. 503. Licensing of facility expansions and transshipments.

“Sec. 504. Siting a second repository.

“Sec. 505. Financial arrangements for low-level radioactive waste site closure.

“Sec. 506. Nuclear Regulatory Commission training authority.

“Sec. 507. Acceptance schedule.

“Sec. 508. Subseabed or ocean water disposal.

“Sec. 509. Environmental requirements.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.

“Sec. 602. Nuclear Waste Technical Review Board.

“Sec. 603. Functions.

“Sec. 604. Investigatory powers.

“Sec. 605. Compensation of members.

“Sec. 606. Staff.

“Sec. 607. Support services.

“Sec. 608. Report.

“Sec. 609. Authorization of appropriations.

“Sec. 610. Termination of the Board.

“TITLE VII—MANAGEMENT REFORM

“Sec. 701. Management reform initiatives.

“Sec. 702. Reporting.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) ACCEPT, ACCEPTANCE.—The terms ‘ac-
4 cept’ and ‘acceptance’ mean the Secretary’s act of
5 taking possession of spent nuclear fuel or high-level
6 radioactive waste.

7 “(2) ACCEPTANCE SCHEDULE.—The term ‘ac-
8 ceptance schedule’ means the schedule established by
9 the Secretary in accordance with section 507(a) for
10 acceptance of spent nuclear fuel and high-level ra-
11 dioactive waste.

12 “(3) AFFECTED INDIAN TRIBE.—The term ‘af-
13 fected Indian tribe’ means any Indian tribe—

14 “(A) within whose reservation boundaries
15 an interim storage facility or a repository for
16 spent nuclear fuel or high-level radioactive
17 waste, or both, is proposed to be located; or

18 “(B) whose federally defined possessory or
19 usage rights to other lands outside of the res-
20 ervation’s boundaries arising out of congres-
21 sionally ratified treaties may be substantially
22 and adversely affected by the locating of such
23 a facility if the Secretary of the Interior finds,
24 upon the petition of the appropriate govern-

1 mental officials of the tribe, that such effects
2 are both substantial and adverse to the tribe.

3 “(4) AFFECTED UNIT OF LOCAL GOVERN-
4 MENT.—The term ‘affected unit of local government’
5 means the unit of local government and jurisdiction
6 over the site of a repository or interim storage facil-
7 ity. Such term may, at the discretion of the Sec-
8 retary, include other units of local government that
9 are contiguous with such unit.

10 “(5) ATOMIC ENERGY DEFENSE ACTIVITY.—
11 The term ‘atomic energy defense activity’ means any
12 activity of the Secretary performed in whole or in
13 part in carrying out any of the following functions:

14 “(A) Naval reactors development.

15 “(B) Weapons activities including defense
16 inertial confinement fusion.

17 “(C) Verification and control technology.

18 “(D) Defense nuclear materials produc-
19 tion.

20 “(E) Defense nuclear waste and materials
21 byproducts management.

22 “(F) Defense nuclear materials security
23 and safeguards and security investigations.

24 “(G) Defense research and development.

1 “(6) CIVILIAN NUCLEAR POWER REACTOR.—

2 The term ‘civilian nuclear power reactor’ means a ci-
3 vilian nuclear power plant required to be licensed
4 under section 103 or 104 b. of the Atomic Energy
5 Act of 1954 (42 U.S.C. 2133, 2134(b)).

6 “(7) COMMISSION.—The term ‘Commission’
7 means the Nuclear Regulatory Commission.

8 “(8) CONTRACTS.—The term ‘contracts’ means
9 the contracts, executed prior to the date of enact-
10 ment of the Nuclear Waste Policy Act of 1995,
11 under section 302(a) of the Nuclear Waste Policy
12 Act of 1982, by the Secretary and any person who
13 generates or holds title to spent nuclear fuel or high-
14 level radioactive waste of domestic origin for accept-
15 ance of such waste or fuel by the Secretary and the
16 payment of fees to offset the Secretary’s expendi-
17 tures, and any subsequent contracts executed by the
18 Secretary pursuant to section 401(a) of this Act.

19 “(9) CONTRACT HOLDERS.—The term ‘contract
20 holders’ means parties (other than the Secretary) to
21 contracts.

22 “(10) DEPARTMENT.—The Term ‘Department’
23 means the Department of Energy.

24 “(11) DISPOSAL.—The term ‘disposal’ means
25 the emplacement in a repository of spent nuclear

1 fuel, high-level radioactive waste, or other highly ra-
2 dioactive material with no foreseeable intent of re-
3 covery, whether or not such emplacement permits re-
4 covery of such material for any future purpose.

5 “(12) DISPOSAL SYSTEM.—The term ‘disposal
6 system’ means all natural barriers and engineered
7 barriers, and engineered systems and components,
8 that prevent the release of radionuclides from reposi-
9 tory.

10 “(13) ENGINEERED BARRIERS.—The term ‘en-
11 gineered barriers’ and ‘engineered systems and com-
12 ponents,’ means man made components of a disposal
13 system. Such term includes the spent nuclear fuel or
14 high-level radioactive waste form, spent nuclear fuel
15 package or high-level radioactive waste, and other
16 materials placed over and around such packages.

17 “(14) HIGH-LEVEL RADIOACTIVE WASTE.—The
18 term ‘high-level radioactive waste’ means—

19 “(A) the highly radioactive material result-
20 ing from the reprocessing of spent nuclear fuel,
21 including liquid waste produced directly in re-
22 processing and any solid material derived from
23 such liquid waste that contains fission products
24 in sufficient concentrations; and

1 “(B) other highly radioactive material that
2 the Commission, consistent with existing law,
3 determines by rule requires permanent isola-
4 tion, which includes greater than class C low-
5 level waste as defined in title 10 Code of Fed-
6 eral Regulations part 61.

7 “(15) FEDERAL AGENCY.—The term ‘Federal
8 agency’ means any executive agency, as defined in
9 section 105 of title 5, United States Code.

10 “(16) INDIAN TRIBE.—The term ‘Indian tribe’
11 means any Indian tribe, band, nation, or other orga-
12 nized group or community of Indians recognized as
13 eligible for the services provided to Indians by the
14 Secretary of the Interior because of their status as
15 Indians including any Alaska Native village, as de-
16 fined in section 3(c) of the Alaska Native Claims
17 Settlement Act (43 U.S.C. 1602(c)).

18 “(17) INTEGRATED MANAGEMENT SYSTEM.—
19 The term ‘integrated management system’ means
20 the system developed by the Secretary for the ac-
21 ceptance, transportation, storage, and disposal of
22 spent nuclear fuel and high-level radioactive waste.

23 “(18) INTERIM STORAGE FACILITY.—The term
24 ‘interim storage facility’ means a facility designed
25 and constructed for the receipt, handling, possession,

1 safeguarding, and storage of spent nuclear fuel and
2 high-level radioactive waste in accordance with title
3 II of this Act.

4 “(19) INTERIM STORAGE FACILITY SITE.—The
5 term ‘interim storage facility site’ means the specific
6 site within area 25 of the Nevada Test Site that is
7 designated by the Secretary and withdrawn and re-
8 served in accordance with this Act for the location
9 of the interim storage facility.

10 “(20) LOW-LEVEL RADIOACTIVE WASTE.—The
11 term ‘low-level radioactive waste’ means radioactive
12 material that—

13 “(A) is not spent nuclear fuel, high-level
14 radioactive waste, transuranic waste, or byprod-
15 uct material as defined in section 11 e.(2) of
16 the Atomic Energy Act of 1954 (42 U.S.C.
17 2014(e)(2)); and

18 “(B) the Commission, consistent with ex-
19 isting law, classifies as low-level radioactive
20 waste.

21 “(21) METRIC TONS URANIUM.—The terms
22 ‘metric tons uranium’ and ‘MTU’ means the amount
23 of uranium in the original unirradiated fuel element
24 whether or not the spent nuclear fuel has been re-
25 processed.

1 “(22) NUCLEAR WASTE FUND.—The terms
2 ‘Nuclear Waste Fund’ and ‘waste fund’ mean the
3 nuclear waste fund established in the United States
4 Treasury prior to the date of enactment of this Act
5 under section 302(c) of the Nuclear Waste Policy
6 Act of 1982.

7 “(23) OFFICE.—The term ‘Office’ means the
8 Office of Civilian Radioactive Waste Management es-
9 tablished within the Department prior to the date of
10 enactment of this Act under the provisions of the
11 Nuclear Waste Policy Act of 1982.

12 “(24) PROGRAM APPROACH.—The term ‘pro-
13 gram approach’ means the Civilian Radioactive
14 Waste Management Program Plan, dated December
15 19, 1994, as modified by this Act, and as amended
16 from time to time by the Secretary in accordance
17 with this Act.

18 “(25) REPOSITORY.—The term ‘repository’
19 means a system designed and constructed under title
20 II of this Act for the permanent geologic disposal of
21 spent nuclear fuel and high-level radioactive waste,
22 including both surface and subsurface areas at
23 which spent nuclear fuel and high-level radioactive
24 waste receipt, handling, possession, safeguarding,
25 and storage are conducted.

1 “(26) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Energy.

3 “(27) SITE CHARACTERIZATION.—The term
4 ‘site characterization’ means activities, whether in a
5 laboratory or in the field, undertaken to establish
6 the geologic condition and the ranges of the param-
7 eters of a candidate site relevant to the location of
8 a repository, including borings, surface excavations,
9 excavations of exploratory facilities, limited sub-
10 surface lateral excavations and borings, and in situ
11 testing needed to evaluate the licensability of a can-
12 didate site for the location of a repository, but not
13 including preliminary borings and geophysical test-
14 ing needed to assess whether site characterization
15 should be undertaken.

16 “(28) SPENT NUCLEAR FUEL.—The term
17 ‘spent nuclear fuel’ means fuel that has been with-
18 drawn from a nuclear reactor following irradiation,
19 the constituent elements of which have not been sep-
20 arated by reprocessing.

21 “(29) STORAGE.—The term ‘storage’ means re-
22 tention of spent nuclear fuel or high-level radioactive
23 waste with the intent to recover such waste or fuel
24 for subsequent use, processing, or disposal.

1 “(30) WITHDRAWAL.—The term ‘withdrawal’
2 has the same definition as that set forth in the Fed-
3 eral Land Policy and Management Act (43 U.S.C.
4 1702 and following).

5 “(31) YUCCA MOUNTAIN SITE.—The term
6 ‘Yucca Mountain site’ means the area in the State
7 of Nevada that is withdrawn and reserved in accord-
8 ance with this Act for the location of a repository.

9 **“SEC. 3. FINDINGS AND PURPOSES.**

10 “(a) FINDINGS.—The Congress finds that—

11 “(1) while spent nuclear fuel can be safely
12 stored at reactor sites, the expeditious movement to
13 and storage of such spent nuclear fuel at a central-
14 ized Federal facility will enhance the Nation’s envi-
15 ronmental protection;

16 “(2) while the Federal Government has the re-
17 sponsibility to provide for the centralized interim
18 storage and permanent disposal of spent nuclear fuel
19 and high-level radioactive waste to protect the public
20 health and safety and the environment, the costs of
21 such storage and disposal should be the responsibil-
22 ity of the generators and owners of such waste and
23 spent fuel, including the Federal Government;

24 “(3) in the interests of protecting the public
25 health and safety, enhancing the Nation’s environ-

1 mental protection, promoting the Nation's energy se-
2 curity, and ensuring the Secretary's ability to com-
3 mence acceptance of spent nuclear fuel and high-
4 level radioactive waste no later than January 31,
5 1998, it is necessary for Congress to authorize an
6 interim storage facility; and

7 “(4) deficit-control measures designed to limit
8 appropriation of general revenues have limited the
9 availability of the Nuclear Waste Fund for its in-
10 tended purposes.

11 “(b) PURPOSES.—The purposes of this Act are—

12 “(1) to direct the Secretary to develop an inte-
13 grated management system in accordance with this
14 Act so that the Department can accept spent nuclear
15 fuel or high-level radioactive waste for interim stor-
16 age commencing no later than January 31, 1998;
17 and

18 “(2) to provide for the siting, construction, and
19 operation of a repository for permanent geologic dis-
20 posal of spent nuclear fuel and high-level radioactive
21 waste as part of an integrated management system
22 in order to adequately protect the public and the en-
23 vironment;

24 “(3) to take those actions necessary to ensure
25 that the consumers of nuclear energy, who are fund-

1 ing the Secretary's activities under this Act, receive
2 the services to which they are entitled and realize
3 the benefits of enhanced protection of public health
4 and safety, and the environment, that will ensue
5 from the Secretary's compliance with the obligations
6 imposed by this Act; and

7 “(4) to provide a schedule and process for the
8 expeditious and safe development and commence-
9 ment of operation of a integrated management sys-
10 tem and any necessary modifications to the trans-
11 portation infrastructure to ensure that the Secretary
12 can commence acceptance of spent nuclear fuel and
13 high-level waste no later than January 31, 1998.

14 **“TITLE I—OBLIGATIONS**

15 **“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

16 “(a) DISPOSAL.—The Secretary shall develop and op-
17 erate a repository for the permanent geologic disposal of
18 spent nuclear fuel and high-level radioactive waste.

19 “(b) ACCEPTANCE.—The Secretary shall accept spent
20 nuclear fuel and high-level radioactive waste at facilities
21 designated by contract holders pursuant to the contracts
22 for storage at an interim storage facility pursuant to sec-
23 tion 205 in accordance with the acceptance schedule, be-
24 ginning not later than January 31, 1998.

1 “(c) TRANSPORTATION.—The Secretary shall provide
2 for the transportation of spent nuclear fuel and high-level
3 radioactive waste accepted by the Secretary. The Sec-
4 retary shall procure all systems and components necessary
5 to transport spent nuclear fuel and high-level radioactive
6 waste from facilities designated by contract holders to and
7 among facilities comprising the Integrated Management
8 System.

9 “(d) INTEGRATED MANAGEMENT SYSTEM.—The
10 Secretary shall expeditiously pursue the development of
11 each component of the integrated management system,
12 and in so doing shall seek to utilize effective private sector
13 management and contracting practices in accordance with
14 title VII of this Act.

15 **“TITLE II—INTEGRATED MANAGEMENT**
16 **SYSTEM**

17 **“SEC. 201. RAILROAD.**

“(a) AUTHORIZATION.—The Secretary shall develop and commence operation of a rail spur originating in Lincoln County, Nevada, and terminating at the interim storage facility sites. The Secretary shall acquire rights-of-way within the corridor designated in subsection (b) as provided in this section and shall construct and operate, or cause to be constructed and operated, a railroad and such facilities as are required to transport spent nuclear fuel

1 and high-level radioactive waste from existing rail systems
2 to the interim storage facility and the repository.

3 “(b) ROUTE DESIGNATION.—

4 “(1) RIGHTS-OF-WAY AND FACILITIES.—The
5 Secretary shall acquire such rights-of-way and de-
6 velop such facilities within the corridor (referred to
7 as the ‘Modified Caliente Route’) depicted on the
8 map dated July 23, 1995 and on file with the Sec-
9 retary.

10 “(2) RECOMMENDATIONS.—The Secretary shall
11 consider specific alignment proposals for the
12 Caliente route made by the State of Nevada and the
13 units of local government within whose jurisdiction
14 passes such route.

15 “(3) NOTICE AND DESCRIPTION.—Within 6
16 months of the date of the enactment of the Nuclear
17 Waste Policy Act of 1995, the Secretary shall—

18 “(A) publish in the Federal Register a no-
19 tice containing a legal description of the cor-
20 ridor; and

21 “(B) file copies of the map referred to in
22 paragraph (1) and the legal description of the
23 corridor with the Congress, the Secretary of the
24 Interior, the Governor of Nevada, the Board of
25 Lincoln County Commissioners, the Board of

1 Nye County Commissioners, and the Archivist
2 of the United States.

3 “(4) CONSTRUCTION.—The map and legal de-
4 scription referred to in paragraph (3) shall have the
5 same force and effect as if they were included in this
6 Act. The Secretary may correct clerical and typo-
7 graphical errors in the map and legal description
8 and make minor adjustments in the boundaries of
9 the corridor.

10 “(c) WITHDRAWAL AND RESERVATION.—

11 “(1) PUBLIC LANDS.—Subject to valid existing
12 rights, the public lands depicted on such map are
13 withdrawn from all forms of entry, appropriation,
14 and disposal under the public land laws, including
15 the mineral leasing laws, the geothermal laws, the
16 material sale laws, and the mining laws.

17 “(2) ADMINISTRATIVE JURISDICTION.—Admin-
18 istrative jurisdiction of such land is transferred from
19 the Secretary of the Interior to the Secretary.

20 “(3) RESERVATION.—Such lands are reserved
21 for the use of the Secretary for the construction and
22 operation of such transportation facilities and associ-
23 ated activities under this title.

24 “(4) MEMORANDUM OF UNDERSTANDING.—The
25 Secretary may also enter into a memorandum of un-

1 derstanding with the head of any other department
2 having administrative jurisdiction over other Federal
3 lands used for purposes of the corridor referred to
4 in this section.

5 “(d) NATIONAL ENVIRONMENTAL POLICY ACT.—

6 “(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary’s activities in connection with
7 the designation of a route and the acquisition of
8 rights-of-way under this section shall be considered
9 preliminary decisionmaking activities. Such activities
10 shall not require the preparation of an environ-
11 mental impact statement under section 102(2)(C) of
12 the National Environmental Policy Act of 1969 (42
13 U.S.C. 4332(2)(C)), or any environmental review
14 under subparagraph (E) or (F) of section 102(2) of
15 such Act, and shall not be delayed pending comple-
16 tion of the environmental impact statement required
17 under paragraph (2).

18 “(2) TRANSPORTATION FACILITIES.—Construc-
19 tion and operation of transportation facilities au-
20 thorized by subsection (a) within the corridor shall
21 constitute a major Federal action significantly af-
22 fecting the quality of the human environment for
23 purposes of the National Environmental Policy Act
24 of 1969. The Secretary shall prepare an environ-
25

1 mental impact statement on the construction and
2 operation of such facilities prior to commencement
3 of construction. In preparing such statement, the
4 Secretary shall adopt, to the extent practicable, rel-
5 evant environmental reports that have been devel-
6 oped by other Federal and State agencies.

7 “(3) CONSIDERATIONS.—For purposes of com-
8 plying with the requirements of the National Envi-
9 ronmental Policy Act of 1969 and this section, the
10 Secretary need not consider the need for the devel-
11 opment or improvement of transportation facilities,
12 the timing of the initial availability of the transpor-
13 tation facilities, alternative routes, or alternative
14 means of transportation.

15 “(e) CONSTRUCTION.—Notwithstanding any State or
16 Federal statute, regulation or orders to the contrary, or
17 the pendency of any judicial proceeding, the Secretary
18 shall be authorized to commence construction of transpor-
19 tation facilities upon compliance with the requirements of
20 subsections (a) through (d). No court shall have jurisdic-
21 tion to enjoin the construction of the transportation facili-
22 ties authorized by this section except upon its entry of a
23 final order that the construction is not in accord with the
24 provisions of applicable law.

1 “(f) EXEMPTION.—Neither the Secretary nor any
2 person constructing or operating railroad facilities under
3 contract with the Secretary under this section shall be con-
4 sidered a rail carrier within the meaning of section
5 10102(22) of title 49, United States Code, and shall not
6 be subject to the jurisdiction of the Interstate Commerce
7 Commission.

8 **“SEC. 202. INTERMODAL TRANSFER.**

9 “(a) BEFORE ACCESS.—Until such time as direct rail
10 access is available to the interim storage facility site, the
11 Secretary shall utilize heavy-haul truck transport to move
12 spent nuclear fuel and high-level radioactive waste from
13 the mainline rail line at Caliente, Nevada, to the interim
14 storage facility site.

15 “(b) CAPABILITY DATE.—The Secretary shall de-
16 velop the capability to commence rail to truck intermodal
17 transfer at Caliente, Nevada, no later than January 31,
18 1998. Intermodal transfer and related activities are inci-
19 dental to the interstate transportation of spent nuclear
20 fuel and high-level radioactive waste.

21 “(c) ACQUISITIONS.—The Secretary shall acquire
22 lands and rights-of-way necessary to commence intermodal
23 transfer at Caliente, Nevada.

24 “(d) REPLACEMENTS.—The Secretary shall acquire
25 and develop on behalf of, and dedicate to, the City of

1 Caliente, Nevada, parcels of land and right-of-way as re-
2 quired to facilitate replacement of land and city
3 wastewater disposal activities necessary to commence
4 intermodal transfer pursuant to this Act. Replacement of
5 land and city wastewater disposal activities shall occur no
6 later than January 31, 1998.

7 “(e) NOTICE AND MAP.—Within 6 months of the
8 date of enactment of the Nuclear Waste Policy Act of
9 1995, the Secretary shall—

10 “(1) publish in the Federal Register a notice
11 containing a legal description of the sites and rights-
12 of-way to be acquired under this subsection; and

13 “(2) file copies of a map of such sites and
14 rights-of-way with the Congress, the Secretary of the
15 Interior, the State of Nevada, the Archivist of the
16 United States, the Board of Lincoln County Com-
17 missioners, the Board of Nye County Commis-
18 sioners, and the Caliente City Council.

19 Such map and legal description shall have the same force
20 and effect as if they were included in this Act. The Sec-
21 retary may correct clerical and typographical errors and
22 legal descriptions and make minor adjustments in the
23 boundaries.

24 “(f) IMPROVEMENTS.—The Secretary shall make im-
25 provements to existing roadways selected for heavy-haul

1 truck transport between Caliente, Nevada, and the interim
2 storage facility site as necessary to facilitate year-round
3 safe transport of spent nuclear fuel and high-level radio-
4 active waste.

5 “(g) NATIONAL ENVIRONMENTAL POLICY ACT.—The
6 Secretary’s activities in connection with the development
7 of intermodal transfer capability and improvements to ex-
8 isting roadways pursuant to this section shall be consid-
9 ered preliminary decisionmaking activities. Notwithstand-
10 ing any other law, such activities shall not require the
11 preparation of an environmental impact statement under
12 section 102(2)(C) of the National Environmental Policy
13 Act of 1969 (42 U.S.C. 4332(2)(C)), or any environmental
14 review under subparagraph (E) or (F) of section 102(2)
15 of such Act.

16 “(h) LOCAL GOVERNMENT INVOLVEMENT.—The
17 Commission shall enter into a memorandum of under-
18 standing with the City of Caliente and Lincoln County,
19 Nevada, to provide advice to the Commission regarding
20 intermodal transfer and to facilitate on-site representa-
21 tion. Reasonable expenses of such representation shall be
22 paid by the Secretary.

23 **“SEC. 203. TRANSPORTATION PLANNING.**

24 “(a) TRANSPORTATION READINESS.—The Secretary
25 shall take those actions that are necessary and appropriate

1 to ensure that the Secretary is able to accept spent nuclear
2 fuel and high-level radioactive waste beginning not later
3 than January 31, 1998, and transport such fuel or waste
4 to mainline transportation facilities. As soon as is prac-
5 ticable following enactment of this Act, the Secretary shall
6 analyze each specific facility designated by contract hold-
7 ers in the order of priority established in the acceptance
8 schedule, and develop a logistical plan to assure the Sec-
9 retary's ability to transport spent nuclear fuel and high-
10 level radioactive waste.

11 “(b) TRANSPORTATION PLANNING.—In conjunction
12 with the development of the logistical plan in accordance
13 with subsection (a), the Secretary shall update and mod-
14 ify, as necessary, the Secretary's transportation institu-
15 tional plans to ensure that institutional issues are ad-
16 dressed and resolved on a schedule to support the com-
17 mencement of transportation of spent nuclear fuel and
18 high-level radioactive waste to the interim storage facility
19 no later than January 31, 1998. Among other things, such
20 planning shall provide a schedule and process for address-
21 ing and implementing, as necessary, transportation rout-
22 ing plans, transportation contracting plans, transportation
23 training in accordance with section 203; and transpor-
24 tation tracking programs.

1 **“SEC. 204. TRANSPORTATION REQUIREMENTS.**

2 “(a) PACKAGE CERTIFICATION.—No spent nuclear
3 fuel or high-level radioactive waste may be transported by
4 or for the Secretary under this Act except in packages that
5 have been certified for such purposes by the Commission.

6 “(b) STATE NOTIFICATION.—The Secretary shall
7 abide by regulations of the Commission regarding advance
8 notification of State and local governments prior to trans-
9 portation of spent nuclear fuel or high-level radioactive
10 waste under this Act.

11 “(c) TECHNICAL ASSISTANCE.—The Secretary shall
12 provide technical assistance and funds to States, affected
13 units of local government, and Indian tribes through
14 whose jurisdiction the Secretary plans to transport sub-
15 stantial amounts of spent nuclear fuel or high-level radio-
16 active waste for public safety officials of appropriate units
17 of local government. Training shall cover procedures re-
18 quired for safe routine transportation of these materials,
19 as well as procedures for dealing with emergency response
20 situations. The Secretary’s duty to provide technical and
21 financial assistance under this subsection shall be limited
22 to amounts specified in annual appropriations.

23 “(d) USE OF PRIVATE CARRIERS.—The Secretary, in
24 providing for the transportation of spent nuclear fuel
25 under this Act, shall utilize by contract private industry
26 to the fullest extent possible in each aspect of such trans-

1 portation. The Secretary shall use direct Federal services
2 for such transportation only upon a determination by the
3 Secretary of Transportation, in consultation with the Sec-
4 retary, that private industry is unable or unwilling to pro-
5 vide such transportation services at a reasonable cost.

6 “(e) TRANSFER OF TITLE.—Acceptance by the Sec-
7 retary of any spent nuclear fuel or high-level radioactive
8 waste shall constitute a transfer of title to the Secretary.

9 **“SEC. 205. INTERIM STORAGE.**

10 “(a) AUTHORIZATION.—The Secretary shall design,
11 construct, and operate a facility for the interim storage
12 of spent nuclear fuel and high-level radioactive waste at
13 the interim storage facility site. The interim storage facil-
14 ity shall be subject to licensing pursuant to the Atomic
15 Energy Act of 1954 in accordance with the Commission’s
16 regulations governing the licensing of independent spent
17 fuel storage installations, which regulations shall be
18 amended by the Commission as necessary to implement
19 the provisions of this Act. The interim storage facility
20 shall commence operation in phases by January 31, 1998.

21 “(b) DESIGN.—

22 “(1) The interim storage facility shall be de-
23 signed in two phases in order to commence oper-
24 ations no later than January 31, 1998. The design
25 of the interim storage facility shall provide for the

1 use of technologies, licensed, approved, or certified
2 by the Commission for use at the interim storage fa-
3 cility as necessary to ensure compatibility between
4 the interim storage facility and contract holders'
5 spent nuclear fuel and facilities, and to facilitate the
6 Secretary's ability to meet the Secretary's obliga-
7 tions under this Act.

8 “(2) The Secretary shall consent to an amend-
9 ment to the contracts to provide for reimbursement
10 to contract holders for transportable storage systems
11 purchased by contract holders if the Secretary deter-
12 mines that it is cost effective to use such transport-
13 able storage systems as part of the integrated man-
14 agement system, provided that the Secretary shall
15 not be required to expend any funds to modify con-
16 tract holders' storage or transport systems or to
17 seek additional regulatory approvals in order to use
18 such systems.

19 “(c) LICENSING.—

20 “(1) PHASES.—The interim storage facility
21 shall be licensed by the Commission in two phases
22 in order to commence operations no later than Janu-
23 ary 31, 1998.

24 “(2) FIRST PHASE.—No later than 12 months
25 after the date of enactment of the Nuclear Waste

1 Policy Act of 1995, the Secretary shall submit to the
2 Commission an application for a license for the first
3 phase of the interim storage facility. The Environ-
4 mental Report and Safety Analysis Report submitted
5 in support of such license application shall be con-
6 sistent with the scope of authority requested in the
7 license application. The license issued for the first
8 phase of the interim storage facility shall have a
9 term of 20 years and shall be renewable for addi-
10 tional terms upon application of the Secretary. The
11 interim storage facility licensed in the first phase
12 shall have a capacity of 20,000 MTU. The Commis-
13 sion shall issue a final decision granting or denying
14 the application for the first phase license no later
15 than 16 months from the date of the submittal of
16 the application for such license.

17 “(3) SECOND PHASE.—No later than 30
18 months after the date of enactment of the Nuclear
19 Waste Policy Act of 1995, the Secretary shall sub-
20 mit to the Commission an application for a license
21 for the second phase interim storage facility. The li-
22 cense for the second phase facility shall authorize a
23 storage capacity of 100,000 MTU. The license for
24 the second phase shall have an initial term of up to
25 100 years, and shall be renewable for additional

1 terms upon application of the Secretary. The second
2 phase of the interim storage facility shall commence
3 operations no later than December 31, 2002.

4 “(d) ADDITIONAL AUTHORITY.—

5 “(1) CONSTRUCTION.—For purposes of comply-
6 ing with subsection (a), the Secretary may com-
7 mence site preparation for the interim storage facil-
8 ity as soon as practicable after the date of enact-
9 ment of the Nuclear Waste Policy Act of 1995 and
10 shall commence construction of each phase of the in-
11 terim storage facility subsequent to submittal of the
12 license application for such phase except that the
13 Commission shall issue an order suspending such
14 construction at any time if the Commission deter-
15 mines that such construction poses an unreasonable
16 risk to public health and safety or the environment.
17 The Commission shall terminate all or part of such
18 order upon a determination that the Secretary has
19 taken appropriate action to eliminate such risk.

20 “(2) FACILITY USE.—Notwithstanding any oth-
21 erwise applicable licensing requirement, the Sec-
22 retary may utilize any facility owned by the Federal
23 Government on the date of enactment of the Nuclear
24 Waste Policy Act of 1995 and within the boundaries
25 of the interim storage facility site, in connection

1 with an imminent and substantial endangerment to
2 public health and safety at the interim storage facil-
3 ity.

4 “(3) ACCEPTANCE OF FUEL AND WASTE.—Sub-
5 ject to paragraph (h), once the Secretary has
6 achieved the annual acceptance rate for spent nu-
7 clear fuel from civilian nuclear power reactors estab-
8 lished pursuant to the contracts executed prior to
9 the date of enactment of the Nuclear Waste Policy
10 Act of 1995, the Secretary shall accept, in an
11 amount not greater than 25 percent of the difference
12 between such acceptance rate and the annual accept-
13 ance rate for spent nuclear fuel from civilian nuclear
14 power reactors established under section 507(a), the
15 following radioactive materials:

16 “(A) spent nuclear fuel or high-level radio-
17 active waste of domestic origin from civilian nu-
18 clear power reactors that have permanently
19 ceased operation on the date of enactment of
20 the Nuclear Waste Policy Act of 1995;

21 “(B) spent nuclear fuel from foreign re-
22 search reactors, as necessary to promote non-
23 proliferation objectives; and

24 “(C) spent nuclear fuel, including spent
25 nuclear fuel from naval reactors, and high-level

1 radioactive waste from atomic energy defense
2 activities.

3 “(e) NATIONAL ENVIRONMENTAL POLICY ACT OF
4 1969.—

5 “(1) PRELIMINARY DECISIONMAKING ACTIVI-
6 TIES.—The Secretary’s activities under this section,
7 including the selection of a site for the interim stor-
8 age facility, the preparation and submittal of a li-
9 cense application and supporting documentation, the
10 construction and operation of any facility, and facil-
11 ity use pursuant to paragraph (d)(2) of this section
12 shall be considered preliminary decisionmaking ac-
13 tivities. No such activity shall require the prepara-
14 tion of an environmental impact statement under
15 section 102(2)(C) of the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or re-
17 quire any environmental review under subparagraph
18 (E) or (F) of such Act.

19 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

20 “(A) FINAL DECISION.—A final decision
21 by the Commission to grant or deny a license
22 application for the first or second phase of the
23 interim storage facility shall be accompanied by
24 an environmental impact statement prepared
25 under section 102(2)(C) of the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C.
2 4332(2)(C)). In preparing and environmental
3 impact statement, the Commission—

4 “(i) shall ensure that the scope of the
5 Environmental Impact Statement is con-
6 sistent with the scope of the licensing ac-
7 tion; and

8 “(ii) shall analyze the impacts of the
9 transportation of spent nuclear fuel and
10 high-level radioactive waste to the interim
11 storage facility in a generic manner.

12 “(B) CONSIDERATIONS.—Such environ-
13 mental impact statement shall not consider—

14 “(i) the need for the interim storage
15 facility, including any individual compo-
16 nent thereof;

17 “(ii) the time of the initial availability
18 of the interim storage facility;

19 “(iii) any alternatives to the storage
20 of spent nuclear fuel and high-level radio-
21 active waste at the interim storage facility;

22 “(iv) any alternatives to the site of
23 the facility as designated by the Secretary
24 in accordance with subsection (a);

1 “(v) any alternatives to the design cri-
2 teria for such facility or any individual
3 component thereof, as specified by the Sec-
4 retary in the license application; or

5 “(vi) the environmental impacts of the
6 storage of spent nuclear fuel and high-level
7 radioactive waste at the interim storage fa-
8 cility beyond the initial term of the license
9 or the term of the renewal period for which
10 a license renewal application is made.

11 “(f) JUDICIAL REVIEW.—Judicial review of the Com-
12 mission’s environmental impact statement under the Na-
13 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
14 et seq.) shall be consolidated with judicial review of the
15 Commission’s licensing decision. No court shall have juris-
16 diction to enjoin the construction or operation of the in-
17 terim storage facility prior to its final decision on review
18 of the Commission’s licensing action.

19 “(g) WASTE CONFIDENCE.—The Secretary’s obliga-
20 tion to construct and operate the interim storage facility
21 in accordance with this section and the Secretary’s obliga-
22 tion to develop an integrated management system in ac-
23 cordance with the provisions of this Act, shall provide suf-
24 ficient and independent grounds for any further findings
25 by the Commission of reasonable assurance that spent nu-

1 clear fuel and high-level radioactive waste will be disposed
2 of safely and on a timely basis for purposes of the Com-
3 mission’s decision to grant or amend any license to operate
4 any civilian nuclear power reactor under the Atomic En-
5 ergy Act of 1954 (42 U.S.C. 2011, et seq.).

6 “(h) STORAGE OF OTHER SPENT NUCLEAR FUEL
7 AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than
8 18 months following the date of enactment of the Nuclear
9 Waste Policy Act of 1995, the Commission shall, by rule,
10 establish criteria for the storage in the interim storage fa-
11 cility of fuel and waste listed in paragraph (d)(3) (A)
12 through (C), to the extent such criteria are not included
13 in regulations issued by the Commission and existing on
14 the date of enactment of the Nuclear Waste Policy Act
15 of 1995. Following establishment of such criteria, the Sec-
16 retary shall seek authority, as necessary, to store fuel and
17 waste listed in paragraph (d)(3) (A) through (C) at the
18 interim storage facility. None of the activities carried out
19 pursuant to this paragraph shall delay, or otherwise affect,
20 the development, construction, licensing, or operation of
21 the interim storage facility.

22 “(i) SAVINGS CLAUSE.—The Commission shall, by
23 rule, establish procedures for the licensing of any tech-
24 nology for the dry storage of spent nuclear fuel by rule
25 and without, to the maximum extent possible, the need

1 for site-specific approvals by the Commission. Nothing in
2 this Act shall affect any such procedures, or any licenses
3 or approvals issued pursuant to such procedures in effect
4 on the date of enactment.

5 **“SEC. 206. PERMANENT DISPOSAL.**

6 “(a) SITE CHARACTERIZATION.—

7 “(1) GUIDELINES.—The guidelines promul-
8 gated by the Secretary and published at 10 CFR
9 part 960 are annulled and revoked and the Sec-
10 retary shall make no assumptions or conclusions
11 about the licensability of the Yucca Mountain site as
12 a repository by reference to such guidelines.

13 “(2) SITE CHARACTERIZATION ACTIVITIES.—
14 The Secretary shall carry out appropriate site char-
15 acterization activities at the Yucca Mountain site in
16 accordance with the Secretary’s program approach
17 to site characterization. The Secretary shall modify
18 or eliminate those site characterization activities de-
19 signed only to demonstrate the suitability of the site
20 under the guidelines referenced in paragraph (1).

21 “(3) SCHEDULE.—Consistent with the sched-
22 ules set forth in the program approach, as modified
23 to be consistent with the Nuclear Waste Policy Act
24 of 1995, the Secretary shall apply to the Commis-
25 sion for authorization to construct a repository. If,

1 at any time prior to the filing of such application,
2 the Secretary determines that the Yucca Mountain
3 site cannot satisfy the Commission's regulations ap-
4 plicable to the licensing of a geologic repository, the
5 Secretary shall terminate site characterization activi-
6 ties at the site, notify Congress and the State of Ne-
7 vada of the Secretary's determination and the rea-
8 sons therefor, and recommend to Congress not later
9 than 6 months after such determination further ac-
10 tions, including the enactment of legislation, that
11 may be needed to manage the Nation's spent nuclear
12 fuel and high-level radioactive waste.

13 “(4) MAXIMIZING CAPACITY.—In developing an
14 application for authorization to construct the reposi-
15 tory, the Secretary shall seek to maximize the capac-
16 ity of the repository, in the most cost-effective man-
17 ner, consistent with the need for disposal capacity.

18 “(b) LICENSING.—Upon the completion of any licens-
19 ing proceeding for the first phase of the interim storage
20 facility, the Commission shall amend its regulations gov-
21 erning the disposal of spent nuclear fuel and high-level ra-
22 dioactive waste in geologic repositories to the extent nec-
23 essary to comply with this Act. Subject to subsection (c),
24 such regulations shall provide for the licensing of the re-
25 pository according to the following procedures:

1 “(1) CONSTRUCTION AUTHORIZATION.—The
2 Commission shall grant the Secretary a construction
3 authorization for the repository upon determining
4 that there is reasonable assurance that spent nuclear
5 fuel and high-level radioactive waste can be disposed
6 of in the repository—

7 “(A) in conformity with the Secretary’s ap-
8 plication, the provisions of this Act, and the
9 regulations of the Commission;

10 “(B) without unreasonable risk to the
11 health and safety of the public; and

12 “(C) consistent with the common defense
13 and security.

14 “(2) LICENSE.—Following substantial comple-
15 tion of construction and the filing of any additional
16 information needed to complete the license applica-
17 tion, the Commission shall issue a license to dispose
18 of spent nuclear fuel and high-level radioactive waste
19 in the repository if the Commission determines that
20 the repository has been constructed and will
21 operate—

22 “(A) in conformity with the Secretary’s ap-
23 plication, the provisions of this Act, and the
24 regulations of the Commission;

1 “(B) without unreasonable risk to the
2 health and safety of the public; and

3 “(C) consistent with the common defense
4 and security.

5 “(3) CLOSURE.—After emplacing spent nuclear
6 fuel and high level radioactive waste in the reposi-
7 tory and collecting sufficient confirmatory data on
8 repository performance to reasonably confirm the
9 basis for repository closure consistent with the Com-
10 mission’s regulations applicable to the licensing of a
11 repository, as modified in accordance with this Act,
12 the Secretary shall apply to the Commission to
13 amend the license to permit permanent closure of
14 the repository. The Commission shall grant such li-
15 cense amendment upon finding that there is reason-
16 able assurance that the repository can be perma-
17 nently closed—

18 “(A) in conformity with the Secretary’s ap-
19 plication to amend the license, the provisions of
20 this Act, and the regulations of the Commis-
21 sion;

22 “(B) without unreasonable risk to the
23 health and safety of the public; and

24 “(C) consistent with the common defense
25 and security.

1 “(4) POST-CLOSURE.—The Secretary shall take
2 those actions necessary and appropriate at the
3 Yucca Mountain site to prevent any activity at the
4 site subsequent to repository closure that poses an
5 unreasonable risk of—

6 “(A) breaching the repository’s engineered
7 or geologic barriers; or

8 “(B) increasing the exposure of individual
9 members of the public to radiation beyond the
10 release standard established in subsection
11 (d)(1).

12 “(c) MODIFICATION OF REPOSITORY LICENSING
13 PROCEDURE.—The Commission’s regulations shall pro-
14 vide for the modification of the repository licensing proce-
15 dure, as appropriate, in the event that the Secretary seeks
16 a license to permit the emplacement in the repository, on
17 a retrievable basis, of only that quantity of spent nuclear
18 fuel or high-level radioactive waste that is necessary to
19 provide the Secretary with sufficient confirmatory data on
20 repository performance to reasonably confirm the basis for
21 repository closure consistent with applicable regulations.

22 “(d) LICENSING STANDARDS.—Notwithstanding any
23 other provision of law, the Administrator of the Environ-
24 mental Protection Agency shall not promulgate, by rule
25 or otherwise, standards for protection of the public from

1 releases of radioactive materials or radioactivity from the
2 repository and any such standards existing on the date
3 of enactment of the Nuclear Waste Policy Act of 1995
4 shall not be incorporated in the Commission's licensing
5 regulations. The Commission's repository licensing deter-
6 minations for the protection of the public shall be based
7 solely on a finding whether the repository can be operated
8 in conformance with the overall system performance
9 standard established in paragraph (1)(A), applied in ac-
10 cordance with the provisions of paragraph (1)(B). The
11 Commission shall amend its regulations in accordance
12 with subsection (b) to incorporate each of the following
13 licensing standards:

14 “(1) STANDARD.—

15 “(A) ESTABLISHMENT OF OVERALL SYS-
16 TEM PERFORMANCE STANDARD.—The standard
17 for protection of the public from release of ra-
18 dioactive material or radioactivity from the re-
19 pository shall prohibit releases that would ex-
20 pose an average member of the general popu-
21 lation in the vicinity of the Yucca Mountain site
22 to an annual dose in excess of 100 millirems
23 unless the Commission determines by rule, con-
24 sidering, in conjunction with the requirements
25 of this section, and, as appropriate, the advice

1 provided by the National Research Council in
2 its report Technical Bases for Yucca Mountain
3 Standards prepared pursuant to section 801 of
4 the Energy Policy Act of 1992 (Public Law
5 102-486), that such standard would constitute
6 an unreasonable risk to health and safety and
7 establishes by rule another standard which will
8 protect health and safety. Such standard shall
9 constitute an overall system performance stand-
10 ard.

11 “(B) APPLICATION OF OVERALL SYSTEM
12 PERFORMANCE STANDARD.—

13 “(i) The licensing basis shall be a
14 finding by the Commission that it has rea-
15 sonable assurance that for the first 1,000
16 years following the commencement of re-
17 pository operations, the overall system per-
18 formance standard will be met based on a
19 deterministic and probabilistic evaluations,
20 as appropriate of the overall performance
21 of the disposal system.

22 “(ii) The Commission, to provide an
23 understanding of the long-term perform-
24 ance of the repository, for the period com-
25 mencing after the first 1,000 years of op-

1 eration of the repository and terminating
2 at 10,000 years after the commencement
3 of operation of the repository, shall analyze
4 the overall system performance through
5 the use of a probabilistic integrated per-
6 formance model that uses best estimate as-
7 sumptions, data, and methods.

8 “(iii) The Commission shall not con-
9 sider catastrophic events where the health
10 consequences of individual events them-
11 selves can be reasonably assumed to exceed
12 the health consequences due to the impact
13 of the events on repository performance.

14 “(iv) For the purpose of assessing
15 doses to individuals living in the future,
16 the Commission shall assume the individ-
17 uals live in a society with agricultural
18 practices, eating habits, and other relevant
19 social characteristics similar to those of
20 present-day U.S. society. Extremes in so-
21 cial behavior, eating habits, or other rel-
22 evant practices or characteristics shall not
23 be considered.

24 “(v) For the purpose of this section,
25 an average member of the general popu-

1 lation in the vicinity of the Yucca Moun-
2 tain site means a person whose physiology,
3 age, general health, agricultural practices,
4 eating habits, and social behavior represent
5 the average for persons living in the vicin-
6 ity of the site.

7 “(2) HUMAN INTRUSION.—The Commission
8 shall assume that, following repository closure, the
9 inclusion of engineered barriers and the Secretary’s
10 post-closure actions at the Yucca Mountain site in
11 accordance with subsection (b)(4), shall be sufficient
12 to—

13 “(A) prevent any human activity at the
14 site that poses an unreasonable risk of breach-
15 ing the repository’s engineered or geologic bar-
16 riers; and

17 “(B) prevent any increase in the exposure
18 of individual members of the public to radiation
19 beyond allowable limits as specified in para-
20 graph (1).

21 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

22 “(1) SUBMISSION OF STATEMENT.—Construc-
23 tion and operation of the repository shall be consid-
24 ered a major Federal action significantly affecting
25 the quality of the human environment for purposes

1 of the National Environmental Policy Act of 1969
2 (42 U.S.C. 4321 et seq.). The Secretary shall submit
3 an environmental impact statement on the construc-
4 tion and operation of the repository to the Commis-
5 sion with the license application and shall supple-
6 ment such environmental impact statement as ap-
7 propriate.

8 “(2) CONSIDERATIONS.—For purposes of com-
9 plying with the requirements of the National Envi-
10 ronmental Policy Act of 1969 and this section, the
11 Secretary shall not consider in the environmental
12 impact statement the need for the repository, alter-
13 native sites or designs for the repository, the time of
14 the initial availability of the repository, or any alter-
15 natives to the isolation of spent nuclear fuel and
16 high-level radioactive waste in a repository.

17 “(3) ADOPTION BY COMMISSION.—The Sec-
18 retary’s environmental impact statement and any
19 supplements thereto shall, to the extent practicable,
20 be adopted by the Commission in connection with
21 the issuance by the Commission of a construction
22 authorization under subsection (b)(1), a license
23 under subsection (b)(2), or a license amendment
24 under subsection (b)(3). To the extent such state-
25 ment or supplement is adopted by the Commission,

1 such adoption shall be deemed to also satisfy the re-
2 responsibilities of the Commission under the National
3 Environmental Policy Act of 1969, and no further
4 consideration shall be required, except that nothing
5 in this subsection shall affect any independent re-
6 sponsibilities of the Commission to protect the public
7 health and safety under the Atomic Energy Act of
8 1954. In any such statement or supplement pre-
9 pared with respect to the repository, the Commission
10 shall not consider the need for a repository, the time
11 of initial availability of the repository, alternate sites
12 or designs for the repository, or any alternatives to
13 the isolation of spent nuclear fuel and high-level ra-
14 dioactive waste in a repository.

15 “(f) JUDICIAL REVIEW.—No court shall have juris-
16 diction to enjoin issuance of the Commission repository
17 licensing regulations prior to its final decision on review
18 of such regulations.

19 **“SEC. 207. LAND WITHDRAWAL.**

20 “(a) WITHDRAWAL AND RESERVATION.—

21 “(1) WITHDRAWAL.—Subject to valid existing
22 rights, the interim storage facility site and the
23 Yucca Mountain site, as described in subsection (b),
24 are withdrawn from all forms of entry, appropria-
25 tion, and disposal under the public land laws, includ-

1 ing the mineral leasing laws, the geothermal leasing
2 laws, the material sale laws, and the mining laws.

3 “(2) JURISDICTION.—Jurisdiction of any land
4 within the interim storage facility site and the Yucca
5 Mountain site managed by the Secretary of the Inte-
6 rior or any other Federal officer is transferred to the
7 Secretary.

8 “(3) RESERVATION.—The interim storage facil-
9 ity site and the Yucca Mountain site are reserved for
10 the use of the Secretary for the construction and op-
11 eration, respectively, of the interim storage facility
12 and the repository and activities associated with the
13 purposes of this title.

14 “(b) LAND DESCRIPTION.—

15 “(1) BOUNDARIES.—The boundaries depicted
16 on the map entitled ‘Interim Storage Facility Site
17 Withdrawal Map,’ dated July 28, 1995, and on file
18 with the Secretary, are established as the boundaries
19 of the Interim Storage Facility site.

20 “(2) BOUNDARIES.—The boundaries depicted
21 on the map entitled ‘Yucca Mountain Site With-
22 drawal Map,’ dated July 28, 1995, and on file with
23 the Secretary, are established as the boundaries of
24 the Yucca Mountain site.

1 “(3) NOTICE AND MAPS.—Within 6 months of
2 the date of the enactment of the Nuclear Waste Pol-
3 icy Act of 1995, the Secretary shall—

4 “(A) publish in the Federal Register a no-
5 tice containing a legal description of the interim
6 storage facility site; and

7 “(B) file copies of the maps described in
8 paragraph (1), and the legal description of the
9 interim storage facility site with the Congress,
10 the Secretary of the Interior, the Governor of
11 Nevada, and the Archivist of the United States.

12 “(4) NOTICE AND MAPS.—Concurrent with the
13 Secretary’s application to the Commission for au-
14 thority to construct the repository, the Secretary
15 shall—

16 “(A) publish in the Federal Register a no-
17 tice containing a legal description of the Yucca
18 Mountain site; and

19 “(B) file copies of the maps described in
20 paragraph (2), and the legal description of the
21 Yucca Mountain site with the Congress, the
22 Secretary of the Interior, the Governor of Ne-
23 vada, and the Archivist of the United States.

24 “(5) CONSTRUCTION.—The maps and legal de-
25 scriptions of the interim storage facility site and the

1 Yucca Mountain site referred to in this subsection
2 shall have the same force and effect as if they were
3 included in this Act. The Secretary may correct cler-
4 ical and typographical errors in the maps and legal
5 descriptions and make minor adjustments in the
6 boundaries of the sites.

7 **“TITLE III—STATE AND LOCAL RELATIONS**

8 **“SEC. 301. FINANCIAL ASSISTANCE.**

9 “(a) GRANTS.—The Secretary shall make grants to
10 the State of Nevada and any affected unit of local govern-
11 ment for purposes of enabling such State or affected unit
12 of local government—

13 “(1) to review activities taken with respect to
14 the Yucca Mountain site for purposes of determining
15 potential economic, social, public health and safety,
16 and environmental impacts of the integrated man-
17 agement system on such State, or affected unit of
18 local government and its residents;

19 “(2) to develop a request for impact assistance
20 under subsection (c);

21 “(3) to engage in any monitoring, testing, or
22 evaluation activities with regard to such site;

23 “(4) to provide information to Nevada residents
24 regarding any activities of such State, the Secretary,
25 or the Commission with respect to such site; and

1 “(5) to request information from, and make
2 comments and recommendations to, the Secretary
3 regarding any activities taken with respect to such
4 site.

5 “(b) SALARY AND TRAVEL EXPENSES.—Any salary
6 or travel expense that would ordinarily be incurred by the
7 State of Nevada or any affected unit of local government
8 may not be considered eligible for funding under this sec-
9 tion.

10 “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

11 “(1) ASSISTANCE REQUESTS.—The Secretary
12 shall offer to provide financial and technical assist-
13 ance to the State of Nevada, and any affected unit
14 of local government requesting such assistance. Such
15 assistance shall be designed to mitigate the impact
16 on such State or affected unit of local government
17 of the development of the integrated management
18 system.

19 “(2) REPORT.—The State of Nevada and any
20 affected unit of local government may request assist-
21 ance under this section by preparing and submitting
22 to the Secretary a report on the economic, social,
23 public health and safety, and environmental impacts
24 that are likely to result from activities of the inte-
25 grated management system.

1 “(d) OTHER ASSISTANCE.—

2 “(1) TAXABLE AMOUNTS.—In addition to finan-
3 cial assistance provided under this subsection, the
4 Secretary shall grant to the State of Nevada and
5 any affected unit of local government an amount
6 each fiscal year equal to the amount such State or
7 affected unit of local government, respectively, would
8 receive if authorized to tax integrated management
9 system activities, as such State or affected unit of
10 local government taxes the non-Federal real property
11 and industrial activities occurring within such State
12 or affected unit of local government.

13 “(2) TERMINATION.—Such grants shall con-
14 tinue until such time as all such activities, develop-
15 ment, and operations are terminated at such site.

16 “(3) ASSISTANCE TO NEVADA AND UNITS OF
17 LOCAL GOVERNMENT.—

18 “(A) PERIOD.—The State of Nevada or
19 any affected unit of local government may not
20 receive any grant under paragraph (1) after the
21 expiration of the 1-year period following the
22 date on which the Secretary notifies the Gov-
23 ernor and legislature of the State of Nevada of
24 the termination of the operation of the inte-
25 grated management system.

1 “(B) ACTIVITIES.—The State of Nevada
2 or any affected unit of local government may
3 not receive any further assistance under this
4 section if the integrated management system
5 activities at such site are terminated by the
6 Secretary or if such activities are permanently
7 enjoined by any court.

8 **“SEC. 302. STATE CONSULTATION.**

9 “(a) PROVISION OF INFORMATION.—

10 “(1) TIMELY AND COMPLETE INFORMATION.—
11 The Secretary, the Commission, and other agencies
12 involved in the construction, operation, or regulation
13 of any aspect of the integrated management system
14 in the State of Nevada shall provide to the Governor
15 and legislature of the State of Nevada timely and
16 complete information regarding determinations or
17 plans made with respect to the site characterization,
18 siting, development, design, licensing, construction,
19 operation, regulation, or decommissioning of the fa-
20 cilities associated with the integrated management
21 system.

22 “(2) WRITTEN RESPONSE.—Upon written re-
23 quest for such information by the Governor or legis-
24 lature of the State of Nevada, the Secretary shall
25 provide a written response to such request within 30

1 days of the receipt of such request. Such response
2 shall provide the information requested or, in the al-
3 ternative, the reasons why the information cannot be
4 so provided. If the Secretary fails to so respond
5 within such 30 days, the Governor or legislature
6 may transmit a formal written objection to such fail-
7 ure to respond to the President. If the President or
8 Secretary fails to respond to such written request
9 within 30 days of the receipt by the President of
10 such formal written objection, the Secretary shall
11 immediately suspend all activities in such State au-
12 thorized by this Act, and shall not renew such activi-
13 ties until the Governor or legislature has received
14 the written response to such written request re-
15 quired by this subsection.

16 “(b) CONSULTATION AND COOPERATION.—The Sec-
17 retary shall consult and cooperate with the Governor and
18 legislature of the State of Nevada and with the Board of
19 Nye County Commissioners in an effort to resolve con-
20 cerns regarding public health and safety, environmental,
21 and economic impacts of any activities authorized by this
22 Act. In carrying out the Secretary’s duties under this Act,
23 the Secretary shall take such concerns into account to the
24 maximum extent feasible and as specified in written agree-
25 ments entered into under this section.

1 “(c) CONTINUATION.—Written agreements estab-
2 lished under section 117(c) of the Nuclear Waste Policy
3 Act of 1982 as constituted prior the date of enactment
4 of the Nuclear Waste Policy Act of 1995, shall continue
5 in effect subsequent to the date of enactment of the Nu-
6 clear Waste Policy Act of 1995.

7 “(d) ON-SITE REPRESENTATIVE.—The Secretary
8 shall offer to the State of Nevada and the unit of local
9 government within whose jurisdiction a site for an interim
10 storage facility or repository is located under this Act an
11 opportunity to designate a representative to conduct onsite
12 oversight activities at such site. Reasonable expenses of
13 such representatives shall be paid by the Secretary.

14 **“SEC. 303. BENEFITS AGREEMENTS.**

15 “(a) IN GENERAL.—

16 “(1) SEPARATE AGREEMENTS.—The Secretary
17 shall offer to enter into separate agreements with
18 the State of Nevada, Nye County, Nevada, and Lin-
19 coln County, Nevada, concerning the integrated
20 management system.

21 “(2) AGREEMENT WITH NEVADA.—Any agree-
22 ment with the State of Nevada under this section
23 shall be negotiated in consultation with any affected
24 units of local government in the State.

1 “(3) AGREEMENT CONTENT.—Any agreement
2 shall contain such terms and conditions, including
3 such financial and institutional arrangements, as the
4 Secretary and agreement entity determine to be rea-
5 sonable and appropriate and shall contain such pro-
6 visions as are necessary to preserve any right to par-
7 ticipation or compensation of the State of Nevada or
8 affected units of local government, Nye County, Ne-
9 vada, and Lincoln County, Nevada.

10 “(b) AMENDMENT.—An agreement entered into
11 under subsection (a) may be amended only with the mu-
12 tual consent of the parties to the amendment and termi-
13 nated only in accordance with subsection (c).

14 “(c) TERMINATION.—The Secretary shall terminate
15 an agreement under subsection (a) if any element of the
16 integrated management system may not be completed.

17 “(d) LIMITATION.—Only 1 agreement each for the
18 State of Nevada, Nye County, Nevada, and Lincoln Coun-
19 ty, Nevada, may be in effect at any one time.

20 “(e) JUDICIAL REVIEW.—Decisions of the Secretary
21 under this section are not subject to judicial review.

22 **“SEC. 304. CONTENT OF AGREEMENTS.**

23 “(a) IN GENERAL.—

24 “(1) SCHEDULE.—In addition to the benefits to
25 which the State of Nevada or affected units of local

1 government are entitled under this title, the Sec-
 2 retary shall make payments to the party of a bene-
 3 fits agreement in accordance with the following
 4 schedule:

BENEFITS SCHEDULE

(amounts in millions)

Event	State	County
(A) Annual Payments prior to first receipt of spent fuel	\$5	\$2.5
(B) Upon first spent fuel receipt	\$10	\$5
(C) Annual payments after first spent fuel receipt until closure of facility	\$10	\$5

5 “(2) DEFINITIONS.—For purposes of this sec-
 6 tion, the term—

7 “(A) ‘spent fuel’ means high-level radio-
 8 active waste or spent nuclear fuel; and

9 “(B) ‘first spent fuel receipt’ does not in-
 10 clude receipt of spent fuel or high-level radio-
 11 active waste for purposes of testing or oper-
 12 ational demonstration.

13 “(3) ANNUAL PAYMENTS.—Annual payments
 14 prior to first spent fuel receipt under paragraph
 15 (1)(A) shall be made on the date of execution of the
 16 benefits agreement and thereafter on the anniver-
 17 sary date of such execution. Annual payments after
 18 the first spent fuel receipt until closure of the facil-
 19 ity under paragraph (1)(C) shall be made on the an-
 20 niversary date of such first spent fuel receipt.

1 “(4) REDUCTION.—If the first spent fuel pay-
2 ment under paragraph (1)(B) is made within 6
3 months after the last annual payment prior to the
4 receipt of spent fuel under paragraph (1)(A), such
5 first spent fuel payment under paragraph (1)(B)
6 shall be reduced by an amount equal to $\frac{1}{12}$ of such
7 annual payment under paragraph (1)(A) for each
8 full month less than 6 that has not elapsed since the
9 last annual payment for paragraph (1)(A).

10 “(5) LINCOLN COUNTY.—At the conclusion of
11 the 15-year period after the Secretary’s first pay-
12 ment to Lincoln County, Nevada, under the benefits
13 schedule in paragraph (1), the payment of funds to
14 such county shall terminate. Such funding as would
15 have been allocated to Lincoln County shall be incor-
16 porated into the payment to the State of Nevada
17 under the benefits schedule. Any benefits agreement
18 with the State of Nevada shall be modified to reflect
19 the requirements of paragraph (7).

20 “(6) RESTRICTION.—Except as provided in
21 paragraph (7), the Secretary may not restrict the
22 purposes for which the payments under this section
23 may be used.

24 “(7) TRANSFERS.—

1 “(A) UNITS OF LOCAL GOVERNMENT.—

2 Any State receiving a payment under this sec-
3 tion shall transfer an amount equal to not less
4 than $\frac{1}{3}$ of the amount of such payment to af-
5 fected units of local government of such State.

6 “(B) PLAN.—A plan for this transfer and
7 appropriate allocation of such portion among
8 such governments shall be included in the bene-
9 fits agreement under section 303 covering such
10 payments.

11 “(C) DISPUTE.—In the event of a dispute
12 concerning such plan, the Secretary shall re-
13 solve such dispute, consistent with this Act and
14 applicable State law.

15 “(b) CONTENTS.—A benefits agreement under sec-
16 tion 303 shall provide that—

17 “(1) the parties to the agreement shall share
18 with one another information relevant to the licens-
19 ing process for the interim storage facility or reposi-
20 tory, as it becomes available;

21 “(2) the State or affected unit of local govern-
22 ment that is party to such agreement may comment
23 on the development of the integrated management
24 system and on documents required under law or reg-

1 ulations governing the effects of the system on pub-
2 lic health and safety; and

3 “(3) the State or affected unit of local govern-
4 ment may waive its rights, if any, to impact assist-
5 ance under sections 301(a) and 301(c).

6 “(c) CONSTRUCTION.—The signature of the Sec-
7 retary on a valid benefits agreement under section 303
8 shall constitute a commitment by the United States to
9 make payments in accordance with such agreement.

10 **“SEC. 305. REVIEW PANEL.**

11 “(a) IN GENERAL.—There shall be established a Re-
12 view Panel consisting of 8 members as follows:

13 “(1) 1 member selected by the Governor of the
14 State of Nevada.

15 “(2) 2 members selected by affected units of
16 local government.

17 “(3) 1 member selected by the Board of Nye
18 County Commissioners.

19 “(4) 1 member selected by the Board of Lincoln
20 County Commissioners.

21 “(5) 1 member to represent persons paying fees
22 under section 401, to be selected by the Secretary.

23 “(6) 1 member to represent other public inter-
24 ests, to be selected by the Secretary.

1 “(7) 1 member to represent contract holders, to
2 be selected by contract holders.

3 “(b) CHAIRMAN.—The chairman of the Review Panel
4 shall be selected by the Review Panel from its members.

5 “(c) TERMS.—

6 “(1) MEMBERS.—The members of the Review
7 Panel shall serve for terms of 4 years each.

8 “(2) PER DIEM.—Members of the Review Panel
9 who are not full-time employees of the Federal Gov-
10 ernment, shall receive a per diem compensation for
11 each day spent conducting work of the Review
12 Panel, including their necessary travel or other ex-
13 penses while engaged in the work of the Review
14 Panel.

15 “(3) EXPENSES.—Expenses of the Panel shall
16 be paid by the Secretary.

17 “(d) DUTIES.—The Review Panel shall—

18 “(1) advise the Secretary on matters relating to
19 the integrated management system including issues
20 relating to design, construction, operation, and de-
21 commissioning of the system;

22 “(2) evaluate performance of the integrated
23 management system as it considers appropriate;

24 “(3) recommend corrective actions to the Sec-
25 retary;

1 “(4) assist in the presentation of State and
2 local perspectives to the Secretary; and

3 “(5) participate in the planning for the review
4 of preoperational data on environmental, demo-
5 graphic, and socioeconomic conditions of the site and
6 the local community.

7 “(e) INFORMATION.—The Secretary shall make avail-
8 able promptly any information in the Secretary’s posses-
9 sion requested by the Panel or its Chairman.

10 “(f) FEDERAL ADVISORY COMMITTEE ACT.—The re-
11 quirements of the Federal Advisory Committee Act shall
12 not apply to a Review Panel established under this title.

13 **“SEC. 306. CONSIDERATION IN SITING FACILITIES.**

14 “The Secretary, in siting Federal research projects,
15 shall give special consideration to proposals from the State
16 of Nevada.

17 **“SEC. 307. ACCEPTANCE OF BENEFITS.**

18 “(a) CONSENT.—The acceptance or use of any of the
19 benefits provided under this title, by the State of Nevada
20 or any affected unit of local government thereof, shall not
21 be deemed to be an expression of consent, express, or de-
22 nied, either under the Constitution of the State or any
23 law thereof, to the siting of an interim storage facility or
24 repository in the State of Nevada, any provision of such
25 Constitution or laws to the contrary notwithstanding.

1 “(b) ARGUMENTS.—Neither the United States nor
2 any other entity may assert any argument based on legal
3 or equitable estoppel, or acquiescence, or waiver, or con-
4 sensual involvement, in response to any decision by the
5 State, to oppose the siting in Nevada of an interim storage
6 facility or repository premised upon or related to the ac-
7 ceptance or use of benefits under this title.

8 “(c) LIABILITY.—No liability of any nature shall ac-
9 crue to be asserted against the State of Nevada, its Gov-
10 ernor, any official thereof, or any official of any govern-
11 mental unit thereof, premised solely upon the acceptance
12 or use of benefits under this title.

13 **“SEC. 308. RESTRICTIONS ON USE OF FUNDS.**

14 “None of the funding provided under this title may
15 be used—

16 “(1) directly or indirectly to influence legislative
17 action on any matter pending before Congress or a
18 State legislature or for any lobbying activity as pro-
19 vided in section 1913 of title 18, United States
20 Code;

21 “(2) for litigation purposes; and

22 “(3) to support multistate efforts or other coali-
23 tion-building activities inconsistent with the purposes
24 of this Act.”

1 **“TITLE IV—FUNDING AND ORGANIZATION**

2 **“SEC. 401. PROGRAM FUNDING.**

3 “(a) CONTRACTS.—

4 “(1) AUTHORITY OF SECRETARY.—In the per-
5 formance of the Secretary’s functions under this
6 Act, the Secretary is authorized to enter into con-
7 tracts with any person who generates or holds title
8 to spent nuclear fuel or high level radioactive waste
9 of domestic origin for the acceptance of title and
10 possession, transportation, interim storage, and dis-
11 posal of such waste or spent fuel. Such contracts
12 shall provide for payment of fees to the Secretary
13 in the amounts set by the Secretary pursuant to
14 paragraphs (2) and (3). Subsequent to the date of
15 enactment of the Nuclear Waste Policy Act of 1995,
16 the contracts executed under section 302(a) of the
17 Nuclear Waste Policy Act of 1982 shall continue in
18 effect under this Act, provided that the Secretary
19 shall consent to an amendment to such contracts as
20 necessary to implement the provisions of this Act.

21 “(2) ANNUAL FEES.—

22 “(A) ELECTRICITY.—For electricity gen-
23 erated by civilian nuclear power reactors and
24 sold on or after the date of enactment of the
25 Nuclear Waste Policy Act of 1995, the fee

1 under paragraph (1) shall be equal to 1.0 mil
2 per kilowatt hour generated and sold.

3 “(3) ONE-TIME FEE.—For spent nuclear fuel or
4 solidified high-level radioactive waste derived from
5 spent nuclear fuel, which fuel was used to generate
6 electricity in a civilian nuclear power reactor prior to
7 the application of the fee under paragraph (2) to
8 such reactor, the fee shall be the one-time fee estab-
9 lished by the Secretary pursuant to section
10 302(a)(3) of the Nuclear Waste Policy Act of 1982,
11 and incorporated in the contracts. Payment of such
12 one-time fee prior to the date of enactment of the
13 Nuclear Waste Policy Act of 1995 shall satisfy the
14 obligation imposed under this paragraph. Any one-
15 time fee paid and collected subsequent to the date
16 of enactment of the Nuclear Waste Policy Act of
17 1995 pursuant to the contracts, including any inter-
18 est due pursuant to such contracts, shall be paid to
19 the Nuclear Waste Fund. In paying such a fee, the
20 person delivering spent nuclear fuel or high-level ra-
21 dioactive wastes derived therefrom, to the Secretary
22 shall have no further financial obligation to the Fed-
23 eral Government for the long-term storage and per-
24 manent disposal of such spent fuel or high-level ra-
25 dioactive waste.

1 “(b) ADVANCE CONTRACTING REQUIREMENT.—

2 “(1) IN GENERAL.—

3 “(A) LICENSE ISSUANCE AND RENEWAL.—

4 The Commission shall not issue or renew a li-
5 cense to any person to use a utilization or pro-
6 duction facility under the authority of section
7 103 or 104 of the Atomic Energy Act of 1954
8 (42 U.S.C. 2133, 2134) unless—

9 “(i) such person has entered into a
10 contract under subsection (a) with the Sec-
11 retary; or

12 “(ii) the Secretary affirms in writing
13 that such person is actively and in good
14 faith negotiating with the Secretary for a
15 contract under this section.

16 “(B) PRECONDITION.—The Commission,
17 as it deems necessary or appropriate, may re-
18 quire as a precondition to the issuance or re-
19 newal of a license under section 103 or 104 of
20 the Atomic Energy Act of 1954 (42 U.S.C.
21 2133, 2134) that the applicant for such license
22 shall have entered into an agreement with the
23 Secretary for the disposal of spent nuclear fuel
24 and high-level radioactive waste that may result
25 from the use of such license.

1 “(2) DISPOSAL IN REPOSITORY.—Except as
2 provided in paragraph (1), no spent nuclear fuel or
3 high-level radioactive waste generated or owned by
4 any person (other than a department of the United
5 States referred to in section 101 or 102 of title 5,
6 United States Code) may be disposed of by the Sec-
7 retary in the repository unless the generator or
8 owner of such spent fuel or waste has entered into
9 a contract under subsection (a) with the Secretary
10 by not later than the date on which such generator
11 owner commences generation of, or takes title to,
12 such spent fuel or waste.

13 “(3) ASSIGNMENT.—The rights and duties of a
14 party to a contract entered into under this section
15 may be assignable with transfer of title to the spent
16 nuclear fuel or high-level radioactive waste involved.

17 “(4) DISPOSAL CONDITIONS.—(A) No spent nu-
18 clear fuel or high-level radioactive waste generated
19 or owned by any department of the United States
20 referred to in section 101 or 102 of title 5, United
21 States Code, may be stored or disposed of by the
22 Secretary at an interim storage facility or repository
23 in the integrated management system developed
24 under this Act unless, each fiscal year, such depart-
25 ment funds its appropriate portion of the costs of

1 such storage and disposal as determined in the rule-
2 making conducted under section 403 of the Nuclear
3 Waste Policy Act of 1995.

4 “(B) No spent nuclear fuel from foreign re-
5 search reactors may be stored or disposed of by the
6 Secretary at an interim storage facility or repository
7 in the integrated management system developed
8 under the Nuclear Waste Policy Act of 1995 unless,
9 each fiscal year, the Federal Government pays the
10 costs associated with such storage and disposal as
11 determined in the rulemaking conducted under sec-
12 tion 403 of the Nuclear Waste Policy Act of 1995.

13 “(c) NUCLEAR WASTE FUND.—

14 “(1) IN GENERAL.—The Nuclear Waste Fund
15 established in the Treasury of the United States
16 under section 302(c) of the Nuclear Waste Policy
17 Act of 1982 shall continue in effect under this Act
18 and shall consist of—

19 “(A) the existing balance in the Nuclear
20 Waste Fund on the date of enactment of the
21 Nuclear Waste Policy Act of 1995; and

22 “(B) all receipts, proceeds, and recoveries
23 realized under subsections (a), and (c)(3) subse-
24 quent to the date of enactment of the Nuclear
25 Waste Policy Act of 1995, which shall be depos-

1 ited in the Nuclear Waste Fund immediately
2 upon their realization.

3 “(2) USE.—The Secretary may make expendi-
4 tures from the Nuclear Waste Fund, subject to sub-
5 sections (d) and (e), only for purposes of the inte-
6 grated management system.

7 “(3) ADMINISTRATION OF NUCLEAR WASTE
8 FUND.—

9 “(A) IN GENERAL.—The Secretary of the
10 Treasury shall hold the Nuclear Waste Fund
11 and, after consultation with the Secretary, an-
12 nually report to the Congress on the financial
13 condition and operations of the Nuclear Waste
14 Fund during the preceding fiscal year.

15 “(B) AMOUNTS IN EXCESS OF CURRENT
16 NEEDS.—If the Secretary determines that the
17 Nuclear Waste Fund contains at any time
18 amounts in excess of current needs, the Sec-
19 retary may request the Secretary of the Treas-
20 ury to invest such amounts, or any portion of
21 such amounts as the Secretary determines to be
22 appropriate, in obligations of the United
23 States—

24 “(i) having maturities determined by
25 the Secretary of the Treasury to be appro-

1 prate to the needs of the Nuclear Waste
2 Fund; and

3 “(ii) bearing interest at rates deter-
4 mined to be appropriate by the Secretary
5 of the Treasury, taking into consideration
6 the current average market yield on out-
7 standing marketable obligations of the
8 United States with remaining periods to
9 maturity comparable to the maturities of
10 such investments, except that the interest
11 rate on such investments shall not exceed
12 the average interest rate applicable to ex-
13 isting borrowings.

14 “(C) EXEMPTION.—Receipts, proceeds,
15 and recoveries realized by the Secretary under
16 this section, and expenditures of amounts from
17 the Nuclear Waste Fund, shall be exempt from
18 annual apportionment under the provisions of
19 subchapter II of chapter 15 of title 31, United
20 States Code.

21 “(d) PROHIBITION ON USE OF APPROPRIATIONS AND
22 NUCLEAR WASTE FUND.—The Secretary shall not make
23 expenditures from the Waste Fund or funds appropriated
24 pursuant to section 403, in connection with the develop-
25 ment of storage and transportation systems for spent nu-

1 clear fuel from civilian nuclear power reactors; provided
2 that nothing herein is intended to prevent the Secretary
3 from expending such funds in connection with the procure-
4 ment from private suppliers of such storage and transpor-
5 tation systems or transportation systems that are compat-
6 ible with contract holder facilities and the integrated man-
7 agement system.

8 “(e) APPROPRIATIONS.—

9 “(1) BUDGET.—The Secretary shall submit the
10 budget for implementation of the Secretary’s respon-
11 sibilities under this Act to the Office of Management
12 and Budget triennially along with the budget of the
13 Department of Energy submitted at such time in ac-
14 cordance with chapter 11 of title 31, United States
15 Code. The budget shall consist of the estimates
16 made by the Secretary of expenditures under this
17 Act and other relevant financial matters for the suc-
18 ceeding 3 fiscal years, and shall be included in the
19 budget of the United States Government. The Sec-
20 retary may make expenditures from the Waste
21 Fund, subject to appropriations, which shall remain
22 available until expended. Appropriations shall be
23 subject to triennial authorization.

24 “(2) APPROPRIATIONS FROM NUCLEAR WASTE
25 FUND.—Beginning in fiscal year 2006 and there-

1 after, funds appropriated from the Nuclear Waste
2 Fund shall not be subject to the allocations for dis-
3 cretionary spending under section 302(a) or 602(a)
4 of the Congressional Budget Act of 1974 or the ap-
5 propriations committees' suballocations under sec-
6 tion 302(b) or 602(b) of such Act.

7 **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**
8 **AGEMENT.**

9 “(a) CONTINUATION OF THE OFFICE OF CIVILIAN
10 RADIOACTIVE WASTE MANAGEMENT.—The Office of Ci-
11 vilian Radioactive Waste Management established under
12 section 304(a) of the Nuclear Waste Policy Act of 1982
13 as constituted prior to the date of enactment of the Nu-
14 clear Waste Policy Act of 1995, shall continue in effect
15 subsequent to the date of enactment of the Nuclear Waste
16 Policy Act of 1995.

17 “(b) FUNCTIONS OF DIRECTOR.—The Director of the
18 Office shall be responsible for carrying out the functions
19 of the Secretary under this Act, subject to the general su-
20 pervision of the Secretary. The Director of the Office shall
21 be directly responsible to the Secretary.

22 **“SEC. 403. FEDERAL CONTRIBUTION.**

23 “(a) ALLOCATION.—No later than one year from the
24 date of enactment of the Nuclear Waste Policy Act of
25 1995, acting pursuant to section 553 of title 5, United

1 States Code, the Secretary shall issue a final rule estab-
2 lishing the appropriate portion of the costs of managing
3 spent nuclear fuel and high-level radioactive waste under
4 this Act allocable to the interim storage or permanent dis-
5 posal of spent nuclear fuel and high-level radioactive waste
6 from atomic energy defense activities and spent nuclear
7 fuel from foreign research reactors. The share of costs al-
8 locable to the management of spent nuclear fuel and high-
9 level radioactive waste from atomic energy defense activi-
10 ties and spent nuclear fuel from foreign research reactors
11 shall include—

12 “(1) an appropriate portion of the costs associ-
13 ated with research and development activities with
14 respect to development of an interim storage facility
15 and repository; and

16 “(2) as appropriate, interest on the principal
17 amounts due calculated by reference to the appro-
18 priate Treasury bill rate as if the payments were
19 made at a point in time consistent with the payment
20 dates for spent nuclear fuel and high-level radio-
21 active waste under the contracts.

22 “(b) APPROPRIATION REQUEST.—In addition to any
23 request for an appropriation from the Nuclear Waste
24 Fund, the Secretary shall request annual appropriations
25 from general revenues in amounts sufficient to pay the

1 costs of the management of spent nuclear fuel and high-
2 level radioactive waste from atomic energy defense activi-
3 ties as established under subsection (a).

4 “(c) REPORT.—In conjunction with the annual report
5 submitted to Congress under section 702, the Secretary
6 shall advise the Congress annually of the amount of spent
7 nuclear fuel and high-level radioactive waste from atomic
8 energy defense activities requiring management in the in-
9 tegrated management system.

10 “(d) AUTHORIZATION.—There is authorized to be ap-
11 propriated to the Secretary, from general revenues, for
12 carrying out the purposes of this Act, such sums as may
13 be necessary to pay the costs of the management of spent
14 nuclear fuel and high-level radioactive waste from atomic
15 energy defense activities as established under subsection
16 (a).

17 **“SEC. 404. BUDGET PRIORITIES.**

18 “(a) THE SECRETARY.—For purposes of preparing
19 annual requests for appropriations for the integrated man-
20 agement system and allocating funds among competing re-
21 quirements, the Secretary shall allocate funds to the com-
22 ponents of the integrated management system in accord-
23 ance with the following prioritization:

24 “(1) The licensing, construction, and operation
25 of the interim storage facility under section 205 and

1 development of the transportation capability under
2 sections 202, 203 and 204 shall be accorded the
3 highest priority.

4 “(2) The acquisition of rights of way and the
5 construction and operation of the railroad under sec-
6 tion 201 shall be accorded the next highest priority.

7 “(3) The licensing, construction, and operation
8 of the repository under section 206 shall be accorded
9 the next highest priority.

10 “(b) THE COMMISSION.—For purposes of preparing
11 annual requests for appropriations from the Nuclear
12 Waste Fund and allocating annual appropriations from
13 the Nuclear Waste Fund among competing requirements,
14 the Commission shall allocate funds in accordance with the
15 following prioritization:

16 “(1) The issuance of regulations for and the li-
17 censing of an interim storage facility under section
18 205 and any associated storage and/or transport
19 systems to be used in the integrated management
20 system shall be accorded the highest priority.

21 “(2) The licensing of the repository under sec-
22 tion 206 shall be accorded the next highest priority.

1 **“TITLE V—GENERAL AND**
2 **MISCELLANEOUS PROVISIONS**

3 **“SEC. 501. COMPLIANCE WITH OTHER LAWS.**

4 “The actions authorized by the Nuclear Waste Policy
5 Act of 1995 shall be governed solely in accordance with
6 the provisions of the Atomic Energy Act, the Energy Reor-
7 ganization Act of 1974, the Hazardous Materials Trans-
8 portation Act, the Nuclear Waste Policy Act of 1995, and
9 the regulations issued thereunder. Such activities shall not
10 be subject to any other Federal, State, or local atomic en-
11 ergy, environmental or land use laws, regulations or orders
12 including, but not limited to, those requiring permits, li-
13 censes, rights-of-way, certifications or authorizations, that
14 would otherwise apply to such activities.

15 **“SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.**

16 “(a) JURISDICTION OF THE UNITED STATES COURTS
17 OF APPEALS.—

18 “(1) ORIGINAL AND EXCLUSIVE JURISDIC-
19 TION.—Except for review in the Supreme Court of
20 the United States, and except as otherwise provided
21 in this Act, the United States courts of appeals shall
22 have original and exclusive jurisdiction over any civil
23 action—

1 “(A) for review of any final decision or ac-
2 tion of the Secretary, the President, or the
3 Commission under this Act;

4 “(B) alleging the failure of the Secretary,
5 the President, or the Commission to make any
6 decision, or take any action, required under this
7 Act;

8 “(C) challenging the constitutionality of
9 any decision made, or action taken, under any
10 provision of this Act; or

11 “(D) for review of any environmental im-
12 pact statement prepared or environmental as-
13 sessment pursuant to the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.) with respect to any action under this Act
16 or alleging a failure to prepare such statement
17 with respect to any such action.

18 “(2) VENUE.—The venue of any proceeding
19 under this section shall be in the judicial circuit in
20 which the petitioner involved resides or has its prin-
21 cipal office, or in the United States Court of Appeals
22 for the District of Columbia.

23 “(b) DEADLINE FOR COMMENCING ACTION.—A civil
24 action for judicial review described under subsection (a)(l)
25 may be brought no later than 180 days after the date of

1 the decision or action or failure to act involved, as the
2 case may be, except that if a party shows that he did not
3 know of the decision or action complained of (or of the
4 failure to act), and that a reasonable person acting under
5 the circumstances would not have known, such party may
6 bring a civil action no later than 180 days after the date
7 such party acquired actual or constructive knowledge or
8 such decision, action, or failure to act.

9 “(c) APPLICATION OF OTHER LAW.—The provisions
10 of this section relating to any matter shall apply in lieu
11 of the provisions of any other Act relating to the same
12 manner.

13 **“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND**
14 **TRANSSHIPMENTS.**

15 “(a) ORAL ARGUMENT.—In any Commission hearing
16 under section 189 of the Atomic Energy Act of 1954 (42
17 U.S.C. 2239) on an application for a license, or for an
18 amendment to an existing license, filed after January 7,
19 1983, to expand the spent nuclear fuel storage capacity
20 at the site of a civilian nuclear power reactor, through the
21 use of high-density fuel storage racks, fuel rod compac-
22 tion, the transshipment of spent nuclear fuel to another
23 civilian nuclear power reactor within the same utility sys-
24 tem, the construction of additional spent nuclear fuel pool
25 capacity or dry storage capacity, or by other means, the

1 Commission shall, at the request of any party, provide an
2 opportunity for oral argument with respect to any matter
3 which the Commission determines to be in controversy
4 among the parties. The oral argument shall be preceded
5 by such discovery procedures as the rules of the Commis-
6 sion shall provide. The Commission shall require each
7 party, including the Commission staff, to submit in writ-
8 ten form, at the time of the oral argument, a summary
9 of the facts, data, and arguments upon which such party
10 proposes to rely that are known at such time to such
11 party. Only facts and data in the form of sworn testimony
12 or written submission may be relied upon by the parties
13 during oral argument. Of the materials that may be sub-
14 mitted by the parties during oral argument, the Commis-
15 sion shall only consider those facts and data that are sub-
16 mitted in the form of sworn testimony or written submis-
17 sion.

18 “(b) ADJUDICATORY HEARING.—

19 “(1) DESIGNATION.—At the conclusion of any
20 oral argument under subsection (a), the Commission
21 shall designate any disputed question of fact, to-
22 gether with any remaining questions of law, for reso-
23 lution in an adjudicatory hearing only if it deter-
24 mines that—

1 “(A) there is a genuine and substantial
2 dispute of fact which can only be resolved with
3 sufficient accuracy by the introduction of evi-
4 dence in an adjudicatory hearing; and

5 “(B) the decision of the Commission is
6 likely to depend in whole or in part on the reso-
7 lution of such dispute.

8 “(2) DETERMINATION.—In making a deter-
9 mination under this subsection, the Commission—

10 “(A) shall designate in writing the specific
11 facts that are in genuine and substantial dis-
12 pute, the reason why the decision of the agency
13 is likely to depend on the resolution of such
14 facts, and the reason why an adjudicatory hear-
15 ing is likely to resolve the dispute; and

16 “(B) shall not consider—

17 “(i) any issue relating to the design,
18 construction, or operation of any civilian
19 nuclear power reactor already licensed to
20 operate at such site, or any civilian nuclear
21 power reactor to which a construction per-
22 mit has been granted at such site, unless
23 the Commission determines that any such
24 issue substantially affects the design, con-
25 struction, or operation of the facility or ac-

1 tivity for which such license application,
2 authorization, or amendment is being con-
3 sidered; or

4 “(ii) any siting or design issue fully
5 considered and decided by the Commission
6 in connection with the issuance of a con-
7 struction permit or operating license for a
8 civilian nuclear power reactor at such site,
9 unless—

10 “(I) such issue results from any
11 revision of siting or design criteria by
12 the Commission following such deci-
13 sion; and

14 “(II) the Commission determines
15 that such issue substantially affects
16 the design, construction, or operation
17 of the facility or activity for which
18 such license application, authorization,
19 or amendment is being considered.

20 “(3) APPLICATION.—The provisions of para-
21 graph (2)(B) shall apply only with respect to li-
22 censes, authorizations, or amendments to licenses or
23 authorizations, applied for under the Atomic Energy
24 Act of 1954 (42 U.S.C. 2011 et seq.) before Decem-
25 ber 31, 2005.

1 “(4) CONSTRUCTION.—The provisions of this
2 section shall not apply to the first application for a
3 license or license amendment received by the Com-
4 mission to expand onsite spent fuel storage capacity
5 by the use of a new technology not previously ap-
6 proved for use at any nuclear power plant by the
7 Commission.

8 “(c) JUDICIAL REVIEW.—No court shall hold unlaw-
9 ful or set aside a decision of the Commission in any pro-
10 ceeding described in subsection (a) because of a failure
11 by the Commission to use a particular procedure pursuant
12 to this section unless—

13 “(1) an objection to the procedure used was
14 presented to the Commission in a timely fashion or
15 there are extraordinary circumstances that excuse
16 the failure to present a timely objection; and

17 “(2) the court finds that such failure has pre-
18 cluded a fair consideration and informed resolution
19 of a significant issue of the proceeding taken as a
20 whole.

21 **“SEC. 504. SITING A SECOND REPOSITORY.**

22 “(a) CONGRESSIONAL ACTION REQUIRED.—The Sec-
23 retary may not conduct site-specific activities with respect
24 to a second repository unless Congress has specifically au-
25 thorized and appropriated funds for such activities.

1 “(b) REPORT.—The Secretary shall report to the
2 President and to Congress on or after January 1, 2007,
3 but not later than January 1, 2010, on the need for a
4 second repository.

5 **“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**
6 **RADIOACTIVE WASTE SITE CLOSURE.**

7 “(a) FINANCIAL ARRANGEMENTS.—

8 “(1) STANDARDS AND INSTRUCTIONS.—The
9 Commission shall establish by rule, regulation, or
10 order, after public notice, and in accordance with
11 section 181 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2231), such standards and instructions as
13 the Commission may deem necessary or desirable to
14 ensure in the case of each license for the disposal
15 of low-level radioactive waste that an adequate bond,
16 surety, or other financial arrangement (as deter-
17 mined by the Commission) will be provided by a li-
18 censee to permit completion of all requirements es-
19 tablished by the Commission for the decontamina-
20 tion, decommissioning, site closure, and reclamation
21 of sites, structures, and equipment used in conjunc-
22 tion with such low-level radioactive waste. Such fi-
23 nancial arrangements shall be provided and ap-
24 proved by the Commission, or, in the case of sites
25 within the boundaries of any agreement State under

1 section 274 of the Atomic Energy Act of 1954 (42
2 U.S.C. 2021), by the appropriate State or State en-
3 tity, prior to issuance of licenses for low-level radio-
4 active waste disposal or, in the case of licenses in
5 effect on January 7, 1983, prior to termination of
6 such licenses.

7 “(2) BONDING, SURETY, OR OTHER FINANCIAL
8 ARRANGEMENTS.—If the Commission determines
9 that any long-term maintenance or monitoring, or
10 both, will be necessary at a site described in para-
11 graph (1), the Commission shall ensure before termi-
12 nation of the license involved that the licensee has
13 made available such bonding, surety, or other finan-
14 cial arrangements as may be necessary to ensure
15 that any necessary long-term maintenance or mon-
16 itoring needed for such site will be carried out by
17 the person having title and custody for such site fol-
18 lowing license termination.

19 “(b) TITLE AND CUSTODY.—

20 “(1) AUTHORITY OF SECRETARY.—The Sec-
21 retary shall have authority to assume title and cus-
22 tody of low-level radioactive waste and the land on
23 which such waste is disposed of, upon request of the
24 owner of such waste and land and following termi-

1 nation of the license issued by the Commission for
2 such disposal, if the Commission determines that—

3 “(A) the requirements of the Commission
4 for site closure, decommissioning, and decon-
5 tamination have been met by the licensee in-
6 volved and that such licensee is in compliance
7 with the provisions of subsection (a);

8 “(B) such title and custody will be trans-
9 ferred to the Secretary without cost to the Fed-
10 eral Government; and

11 “(C) Federal ownership and management
12 of such site is necessary or desirable in order to
13 protect the public health and safety, and the
14 environment.

15 “(2) PROTECTION.—If the Secretary assumes
16 title and custody of any such waste and land under
17 this subsection, the Secretary shall maintain such
18 waste and land in a manner that will protect the
19 public health and safety, and the environment.

20 “(c) SPECIAL SITES.—If the low-level radioactive
21 waste involved is the result of a licensed activity to recover
22 zirconium, hafnium, and rare earths from source material,
23 the Secretary, upon request of the owner of the site in-
24 volved, shall assume title and custody of such waste and
25 the land on which it is disposed when such site has been

1 decontaminated and stabilized in accordance with the re-
2 quirements established by the Commission and when such
3 owner has made adequate financial arrangements ap-
4 proved by the Commission for the long-term maintenance
5 and monitoring of such site.

6 **“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING**
7 **AUTHORIZATION.**

8 “The Commission is authorized and directed to pro-
9 mulgate regulations, or other appropriate regulatory guid-
10 ance, for the training and qualifications of civilian nuclear
11 power plant operators, supervisors, technicians, and other
12 appropriate operating personnel. Such regulations or guid-
13 ance shall establish simulator training requirements for
14 applicants for civilian nuclear power plant operator li-
15 censes and for operator requalification programs; require-
16 ments governing Commission administration of
17 requalification examinations; requirements for operating
18 tests at civilian nuclear power plant simulators, and in-
19 structional requirements for civilian nuclear power plant
20 licensee personnel training programs.

21 **“SEC. 507. ACCEPTANCE SCHEDULE.**

22 “(a) The acceptance schedule shall be implemented
23 in accordance with the following:

1 “(1) Acceptance priority ranking shall be deter-
2 mined by the Department’s annual acceptance prior-
3 ity ranking report.

4 “(2) The Secretary’s spent fuel acceptance rate
5 shall be no less than the following: 1,200 MTU in
6 1998 and 1,200 MTU in 1999; 2,000 MTU in 2000
7 and 2000 MTU in 2001; 2,700 MTU in 2002; and
8 3,000 MTU thereafter.

9 “(b)(1) If the Secretary is unable to begin acceptance
10 by January 31, 1998, at the rates specified in paragraph
11 (a), or if the cumulative amount accepted in any year
12 thereafter is less than that which would have been accept-
13 ed under the acceptance rate specified in paragraph (a),
14 the Secretary shall, as a mitigation measure, adjust the
15 acceptance schedule upward such that within 5 years of
16 the start of acceptance by the Secretary—

17 “(A) the total quantity accepted by the Sec-
18 retary is consistent with the total quantity that the
19 Secretary would have accepted if the Secretary had
20 began acceptance in 1998, and

21 “(B) thereafter the acceptance rate is equiva-
22 lent to the rate that would be in place pursuant to
23 paragraph (a) above if the Secretary had commenced
24 acceptance in 1998.

1 “(2) Nothing in this subsection is intended to or shall
2 be construed to modify the Secretary’s obligation to com-
3 mence acceptance of spent nuclear fuel from civilian nu-
4 clear power reactors by January 31, 1998 in accordance
5 with paragraph (a).

6 **“SEC. 508. SUBSEABED AND OCEAN WATER DISPOSAL.**

7 “Notwithstanding any other provision of law—

8 “(1) the subseabed or ocean water disposal of
9 spent nuclear fuel or high-level radioactive waste is
10 prohibited; and

11 “(2) no funds shall be obligated for any activity
12 relating to the subseabed or ocean water disposal of
13 spent nuclear fuel or high-level radioactive waste.

14 **“SEC. 509. ENVIRONMENTAL REQUIREMENTS.**

15 “Notwithstanding any other law or regulation, the
16 obligations of the Secretary the Commission pursuant to
17 the National Environmental Policy Act of 1969 (42 U.S.C.
18 4321 et.seq.) in connection with the siting, design, licens-
19 ing, construction or operation of any component of the in-
20 tegrated management system are as set forth in this Act
21 and no further actions other than those specified are re-
22 quired to meet the Secretary’s or the Commission’s obliga-
23 tions under such Act.

1 **“TITLE VI—NUCLEAR WASTE TECHNICAL**
2 **REVIEW BOARD**

3 **“SEC. 601. DEFINITIONS.**

4 “For purposes of this title—

5 “(1) CHAIRMAN.—The term ‘Chairman’ means
6 the Chairman of the Nuclear Waste Technical Re-
7 view Board.

8 “(2) BOARD.—The term ‘Board’ means the Nu-
9 clear Waste Technical Review Board continued
10 under section 602.

11 **“SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

12 “(a) CONTINUATION OF THE NUCLEAR WASTE
13 TECHNICAL REVIEW BOARD.—The Nuclear Waste Tech-
14 nical Review Board, established under section 502(a) of
15 the Nuclear Waste Policy Act of 1982 as constituted prior
16 to the date of enactment of the Nuclear Waste Policy Act
17 of 1995, shall continue in effect subsequent to the date
18 of enactment of the Nuclear Waste Policy Act of 1995.

19 “(b) MEMBERS.—

20 “(1) NUMBER.—The Board shall consist of 11
21 members who shall be appointed by the President
22 not later than 90 days after December 22, 1987,
23 from among persons nominated by the National
24 Academy of Sciences in accordance with paragraph
25 (3).

1 “(2) CHAIR.—The President shall designate a
2 member of the Board to serve as Chairman.

3 “(3) NATIONAL ACADEMY OF SCIENCES.—

4 “(A) NOMINATIONS.—The National Acad-
5 emy of Sciences shall, not later than 90 days
6 after December 22, 1987, nominate not less
7 than 22 persons for appointment of the Board
8 from among persons who meet the qualifica-
9 tions described in subparagraph (C).

10 “(B) VACANCIES.—The National Academy
11 of Sciences shall nominate not less than 2 per-
12 sons to fill any vacancy on the Board from
13 among persons who meet the qualifications de-
14 scribed in subparagraph (C).

15 “(C) NOMINEES.—

16 “(i) Each person nominated for ap-
17 pointment to the Board shall be—

18 “(I) eminent in a field of science
19 or engineering, including environ-
20 mental sciences; and

21 “(II) selected solely on the basis
22 of established records of distinguished
23 service.

24 “(ii) The membership of the Board
25 shall be representatives of the broad range

1 of scientific and engineering disciplines re-
2 lated to activities under this title.

3 “(iii) No person shall be nominated
4 for appointment to the Board who is an
5 employee of—

6 “(I) the Department of Energy;

7 “(II) a national laboratory under
8 contract with the Department of En-
9 ergy; or

10 “(III) an entity performing spent
11 nuclear fuel or high-level radioactive
12 waste activities under contract with
13 the Department of Energy.

14 “(4) VACANCIES.—Any vacancy on the Board
15 shall be filled by the nomination and appointment
16 process described in paragraphs (1) and (3).

17 “(5) TERMS.—Members of the Board shall be
18 appointed for terms of 4 years, each such term to
19 commence 120 days after December 22, 1987, ex-
20 cept that of the 11 members first appointed to the
21 Board, 5 shall serve for 2 years and 6 shall serve
22 for 4 years, to be designated by the President at the
23 time of appointment.

1 **“SEC. 603. FUNCTIONS.**

2 “The Board shall evaluate the technical and scientific
3 validity of activities undertaken by the Secretary after De-
4 cember 22, 1987, including—

5 “(1) site characterization activities; and

6 “(2) activities relating to the packaging or
7 transportation of spent nuclear fuel or high-level ra-
8 dioactive waste.

9 **“SEC. 604. INVESTIGATORY POWERS.**

10 “(a) HEARINGS.—Upon request of the Chairman or
11 a majority of the members of the Board, the Board may
12 hold such hearings, sit and act at such times and places,
13 take such testimony, and receive such evidence, as the
14 Board considers appropriate. Any member of the Board
15 may administer oaths or affirmations to witnesses appear-
16 ing before the Board.

17 “(b) PRODUCTION OF DOCUMENTS.—

18 “(1) RESPONSE TO INQUIRIES.—Upon the re-
19 quest of the Chairman or a majority of the members
20 of the Board, and subject to existing law, the Sec-
21 retary (or any contractor of the Secretary) shall pro-
22 vide the Board with such records, files, papers, data,
23 or information as may be necessary to respond to
24 any inquiry of the Board under this title.

25 “(2) EXTENT.—Subject to existing law, infor-
26 mation obtainable under paragraph (1) shall not be

1 limited to final work products of the Secretary, but
2 shall include drafts of such products and documenta-
3 tion of work in progress.

4 **“SEC. 605. COMPENSATION OF MEMBERS.**

5 “(a) IN GENERAL.—Each member of the Board shall
6 be paid at the rate of pay payable for level III of the Exec-
7 utive Schedule for each day (including travel time) such
8 member is engaged in the work of the Board.

9 “(b) TRAVEL EXPENSES.—Each member of the
10 Board may receive travel expenses, including per diem in
11 lieu of subsistence, in the same manner as is permitted
12 under sections 5702 and 5703 of title 5, United States
13 Code.

14 **“SEC. 606. STAFF.**

15 “(a) CLERICAL STAFF.—

16 “(1) AUTHORITY OF CHAIRMAN.—Subject to
17 paragraph (2), the Chairman may appoint and fix
18 the compensation of such clerical staff as may be
19 necessary to discharge the responsibilities of the
20 Board.

21 “(2) PROVISIONS OF TITLE 5.—Clerical staff
22 shall be appointed subject to the provisions of title
23 5, United States Code, governing appointments in
24 the competitive service, and shall be paid in accord-
25 ance with the provisions of chapter 51 and sub-

1 chapter III of chapter 3 of such title relating to clas-
2 sification and general schedule pay rates.

3 “(b) PROFESSIONAL STAFF.—

4 “(1) AUTHORITY OF CHAIRMAN.—Subject to
5 paragraphs (2) and (3), the Chairman may appoint
6 and fix the compensation of such professional staff
7 as may be necessary to discharge the responsibilities
8 of the Board.

9 “(2) NUMBER.—Not more than 10 professional
10 staff members may be appointed under this sub-
11 section.

12 “(3) TITLE 5.—Professional staff members may
13 be appointed without regard to the provisions of title
14 5, United States Code, governing appointments in
15 the competitive service, and may be paid without re-
16 gard to the provisions of chapter 51 and subchapter
17 III of chapter 53 of such title relating to classifica-
18 tion and general schedule pay rates, except that no
19 individual so appointed may receive pay in excess of
20 the annual rate of basic pay payable for GS-18 of
21 the general schedule.

22 **“SEC. 607. SUPPORT SERVICES.**

23 “(a) GENERAL SERVICES.—To the extent permitted
24 by law and requested by the Chairman, the Administrator
25 of General Services shall provide the Board with necessary

1 administrative services, facilities, and support on a reim-
2 bursable basis.

3 “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY
4 ASSESSMENT SERVICES.—The Comptroller General, the
5 Librarian of Congress, and the Director of the Office of
6 Technology Assessment shall, to the extent permitted by
7 law and subject to the availability of funds, provide the
8 Board with such facilities, support, funds and services, in-
9 cluding staff, as may be necessary for the effective per-
10 formance of the functions of the Board.

11 “(c) ADDITIONAL SUPPORT.—Upon the request of
12 the Chairman, the Board may secure directly from the
13 head of any department or agency of the United States
14 information necessary to enable it to carry out this title.

15 “(d) MAILS.—The Board may use the United States
16 mails in the same manner and under the same conditions
17 as other departments and agencies of the United States.

18 “(e) EXPERTS AND CONSULTANTS.—Subject to such
19 rules as may be prescribed by the Board, the Chairman
20 may procure temporary and intermittent services under
21 section 3109(b) of title 5 of the United States Code, but
22 at rates for individuals not to exceed the daily equivalent
23 of the maximum annual rate of basic pay payable for GS-
24 18 of the General Schedule.

1 **“SEC. 608. REPORT.**

2 “The Board shall report not less than 2 times per
3 year to Congress and the Secretary its findings, conclu-
4 sions, and recommendations.

5 **“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

6 “There are authorized to be appropriated for expendi-
7 tures such sums as may be necessary to carry out the pro-
8 visions of this title.

9 **“SEC. 610. TERMINATION OF THE BOARD.**

10 “The Board shall cease to exist not later than one
11 year after the date on which the Secretary begins disposal
12 of spent nuclear fuel or high-level radioactive waste in the
13 repository.

14 **“TITLE VII—MANAGEMENT REFORM**

15 **“SEC. 701. MANAGEMENT REFORM INITIATIVES.**

16 “(a) IN GENERAL.—The Secretary is directed to take
17 actions as necessary to improve the management of the
18 civilian radioactive waste management program to ensure
19 that the program is operated, to the maximum extent
20 practicable, in like manner as a private business. Notwith-
21 standing any other provision of law, the civilian radio-
22 active waste management program is not subject to laws
23 or regulations concerning the civil service as described in
24 this title.

25 “(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE
26 MANAGEMENT EMPLOYEES.—

1 “(1) COMPENSATION.—The Secretary shall,
2 without regard to section 5301 of title 5, United
3 States Code, fix the compensation of the Director
4 and the Deputy Director of Office of Civilian Radio-
5 active Waste Management. The Director shall, with-
6 out regard to section 5301 of title 5, United States
7 Code, fix the compensation for all other Federal em-
8 ployees assigned to the Office of Civilian Radioactive
9 Waste Management, define their duties, and provide
10 for a system of organization to fix responsibility and
11 promote efficiency. The Deputy Director may be re-
12 moved at the Director’s discretion without regard to
13 any laws, rules, or regulations concerning personnel
14 actions in the Civil Service System or Senior Execu-
15 tive Service. Any other Federal employee assigned to
16 the Office of Civilian Radioactive Waste Manage-
17 ment may be removed at the discretion of the Sec-
18 retary or Director without regard to any laws, rules,
19 or regulations concerning personnel actions in the
20 Civil Service System or Senior Executive Service.
21 The Secretary shall ensure that Federal employees
22 assigned to the Office of Civilian Radioactive Waste
23 Management are appointed, promoted, and assigned
24 on the basis of merit and fitness. Other personnel
25 actions shall be consistent with the principles of fair-

1 ness and due process specified in title 5 of the
2 United States Code, but without regard to those
3 provisions of said title governing appointments and
4 other personnel actions in the competitive service.

5 “(2) APPLICATION.—The provisions of para-
6 graph (1) shall not apply to Federal employees who
7 may be, from time to time, temporarily assigned to
8 the Office of Civilian Radioactive Waste Manage-
9 ment. The use of temporary assignment of Federal
10 employees to the Office of Civilian Radioactive
11 Waste Management shall not be used in any manner
12 to circumvent the full application of the provisions
13 in paragraph (1).

14 “(3) TRANSITION.—The Secretary shall transi-
15 tion the Federal employees assigned to the Office of
16 Civilian Radioactive Waste Management to the pro-
17 visions of this section in an orderly manner allowing
18 for the development of the needed procedures. Under
19 no circumstances shall this transition take longer
20 than 6 months from the date of enactment of this
21 section.

22 “(4) RETENTION OF BENEFITS.—Federal em-
23 ployees assigned to the Office of Civilian Radioactive
24 Waste Management and transitioned to the provi-
25 sions of this section shall retain employment benefits

1 in effect immediately prior to the transition date.
2 Transitioned employees will continue in the Civil
3 Service System's retirement system.

4 “(c) AUDITS.—

5 “(1) STANDARD.—The Office of Civilian Radio-
6 active Waste Management, its contractors, and sub-
7 contractors at all tiers, shall conduct, or have con-
8 ducted, audits and examinations of their operations
9 in accordance with the usual and customary prac-
10 tices of private corporations engaged in large nuclear
11 construction projects consistent with its role in the
12 program.

13 “(2) TIME.—The management practices and
14 performances of the Office of Civilian Radioactive
15 Waste Management shall be audited every 5 years
16 by an independent management consulting firm with
17 significant experience in similar audits of private
18 corporations engaged in large nuclear construction
19 projects. The first such audit shall be conducted 5
20 years after the enactment of the Nuclear Waste Pol-
21 icy Act of 1995.

22 “(3) COMPTROLLER GENERAL.—The Comptrol-
23 ler General of the United States shall annually make
24 an audit of the Office, in accordance with such regu-
25 lations as the Comptroller General may prescribe.

1 The Comptroller General shall have access to such
2 books, records, accounts, and other materials of the
3 Office as the Comptroller General determines to be
4 necessary for the preparation of such audit. The
5 Comptroller General shall submit to the Congress a
6 report on the results of each audit conducted under
7 this section.

8 “(4) TIME.—No audit contemplated by this
9 subsection shall take longer than 30 days to con-
10 duct. An audit report shall be issued in final form
11 no longer than 60 days after the audit is com-
12 menced.

13 “(5) PUBLIC DOCUMENTS.—All audit reports
14 shall be public documents and available to any indi-
15 vidual upon request.

16 “(d) VALUE ENGINEERING.—The Secretary shall
17 create a value engineering function within the Office of
18 Civilian Radioactive Waste Management that reports di-
19 rectly to the Director, which shall carry out value engi-
20 neering functions in accordance with the usual and cus-
21 tomary practices of private corporations engaged in large
22 nuclear construction projects.

23 “(e) SITE CHARACTERIZATION.—The Secretary shall
24 employ, on an ongoing basis, integrated performance mod-
25 eling to identify appropriate parameters for the remaining

1 site characterization effort and to eliminate studies of pa-
2 rameters that are shown not to affect long-term repository
3 performance.

4 **“SEC. 702. REPORTING.**

5 “(a) INITIAL REPORT.—Within 180 days of enact-
6 ment of this section, the Secretary shall report to Con-
7 gress on its planned actions for implementing the provi-
8 sions of this Act, including the development of the Inte-
9 grated Waste Management System. Such report shall in-
10 clude—

11 “(1) an analysis of the Secretary’s progress in
12 meeting its statutory and contractual obligation to
13 accept title to, possession of, and delivery of spent
14 nuclear fuel and high-level radioactive waste begin-
15 ning no later than January 31, 1998, and in accord-
16 ance with the acceptance schedule;

17 “(2) a detailed schedule and timeline showing
18 each action that the Secretary intends to take to
19 meet the Secretary’s obligations under this Act and
20 the contracts;

21 “(3) a detailed description of the Secretary’s
22 contingency plans in the event that the Secretary is
23 unable to meet the planned schedule and timeline;
24 and

1 “(4) an analysis by the Secretary of its funding
2 needs for fiscal years 1996 through 2001.

3 “(b) ANNUAL REPORTS.—On each anniversary of the
4 submittal of the report required by subsection (a), the Sec-
5 retary shall make annual reports to the Congress for the
6 purpose of updating the information contained in such re-
7 port. The annual reports shall be brief and shall notify
8 the Congress of—

9 “(1) any modifications to the Secretary’s sched-
10 ule and timeline for meeting its obligations under
11 this Act;

12 “(2) the reasons for such modifications, and the
13 status of the implementation of any of the Sec-
14 retary’s contingency plans; and

15 “(3) the Secretary’s analysis of its funding
16 needs for the ensuing 5 fiscal years.

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